

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF OREGON

3 UNITED STATES OF AMERICA,)

4 Plaintiff,)

5 v.)

6 PIROUZ SEDAGHATY, et al.,)

7 Defendants.)

) No. 05-60008-2-HO

) September 2, 2010

) Eugene, Oregon

8
9 PARTIAL TRANSCRIPT OF TRIAL PROCEEDINGS

10 BEFORE THE HONORABLE MICHAEL R. HOGAN

11 UNITED STATES DISTRICT COURT JUDGE, AND A JURY

12 DAY 4 A.M. SESSION - PAGES 1 - 128

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1 (Thursday, September 2, 2010; 8:35 a.m. Jury absent.)

2 P R O C E E D I N G S

3 THE COURT: We have a juror that's having some
4 issues with diabetes and hasn't been feeling great, and
5 so we're watching that. If we take a break at some
6 time, that's what that's about. Okay?

7 MR. MATASAR: Your Honor, I understand you have
8 a conference call at 9 o'clock.

9 THE COURT: I do. They promised at 9:00, but
10 time will tell. It's taken me probably two months to
11 settle that case, and \$13-and-a-half million, but it's
12 there now. That's why I had my phone, unfortunately, in
13 here yesterday afternoon. I was baby-sitting lawyers.

14 We'll have jury instructions probably by
15 tomorrow, maybe today, so you'll have them for the
16 weekend.

17 (Jury enters the courtroom at 8:39 a.m.)

18 THE COURT: Good morning, Jury.

19 THE JURY: Good morning.

20 THE COURT: Go ahead, Mr. Matasar.

21 MR. MATASAR: Thank you, Your Honor.

22 CROSS-EXAMINATION (continuing)

23 BY MR. MATASAR:

24 Q. Mr. Wilcox, one of the things you said
25 yesterday was that when Pete Seda told you in September

1 about the Springfield property, you were stunned because
2 you had always envisioned until then that all
3 al-Haramain was was him and his friends in the Rogue
4 Valley.

5 A. That's correct, right.

6 Q. Isn't it true, Mr. Wilcox, that you had a
7 discussion with Chris Helmer -- I'm going to ask that
8 the witness be given 43079. And you can look in your
9 file and find that, if you would like. 43079. Didn't
10 you have a discussion with her about a \$400,000
11 building?

12 A. Well, let me read this. Yeah, that's what it
13 says in my memo here, right.

14 Q. Right. But do you remember now that you talked
15 to her about a building that they bought in Springfield?

16 A. No, I do not. I remember this conversation and
17 she was -- what I took away from this conversation was
18 that she was concerned about the large sum of money
19 coming from the al-Haramain Saudi Arabia organization.

20 Q. But it's not your memory that that conversation
21 had anything to do with the Springfield building?

22 A. I don't think -- well, I can't remember, to
23 tell you the truth. I don't know.

24 Q. Can I have the clerk give you 43081.
25 Mr. Wilcox, does this refresh your recollection that on

1 Thursday, February 1st, same time, that you had a
2 discussion on a telephone call with Ms. Helmer about a
3 property in Springfield?

4 A. Can I have a minute to read it?

5 Q. Oh, sure, I'm sorry.

6 A. Well, if I did have this conversation, it -- it
7 either didn't stay with me or didn't register with me,
8 because I can't remember when I spoke to Mr. Seda about
9 the 131,000.

10 I think I said yesterday I was guessing it was
11 in September. But when I -- when he said that 131,000
12 was for the Springfield building, that was the first
13 time that I was aware of it or that it registered with
14 me.

15 This e-mail here is from her to Mr. -- says the
16 organization. And I eventually got a copy of this
17 because Mr. Seda gave me this when he was disagreeing
18 with the bill that they sent him. And she was sending
19 some documents to justify their bill.

20 Q. Didn't you know that they had a building in
21 Springfield in February of 2001?

22 A. I don't think -- no, I'm convinced I did not.

23 Q. Not until -- let me show you 43664. And if we
24 could expand the top part. Doesn't your file contain a
25 fax that a man named Mr. Eberle was hired by

1 al-Haramain?

2 A. Yes. This is out of our payroll file. And I
3 don't necessarily -- at that time we had a payroll clerk
4 that was excellent, and so the only time I got involved
5 in payroll issues was just to review the quarter end
6 return. She may have gotten this and put this in the
7 file. And I really didn't -- well, as I said, I -- my
8 memory might not be good on when these events occurred,
9 but I remember when Mr. Seda and I had a discussion
10 about the \$131,000 check, that's when, it seems to me,
11 that that's when I remembered that was the first time I
12 had heard about the Springfield building.

13 Q. Mr. Wilcox, I'm going to show you 43697.
14 Doesn't that reflect a check to a man named Eberle in
15 Springfield?

16 A. Yes, sir, it does.

17 Q. And there is an address at the bottom there?

18 A. Yes, I see the address.

19 Q. And this reflects a check written in May. And
20 isn't that address, 2151 East Division Street, the
21 prayer house in Springfield?

22 A. I don't know what the address is in
23 Springfield.

24 Q. Okay. Susan, can I ask you to show RDK-1, page
25 15. Mr. Wilcox, you say that Ms. Anderson showed you

1 the escrow statement.

2 A. Yes, sir.

3 Q. And, Susan, if you could show the address up
4 there, about where it says property location.

5 A. Okay, yes, I see it.

6 Q. Okay. So you hand wrote -- and let's go back
7 to 43697. Isn't that your writing --

8 A. Yes --

9 Q. -- Mr. Wilcox?

10 A. -- that's my handwriting.

11 Q. Your handwriting on the document from May of
12 2001?

13 A. That's correct, right.

14 Q. And let me show you a few more, 43656. If you
15 can expand the bottom. That's Mr. Eberle?

16 A. Yes, it is, right, that's correct.

17 Q. All right. So now you are saying you have no
18 doubt but that you knew that they had an operation in
19 Springfield in February, March, May of 2001. The only
20 thing you are questioning is maybe you had this
21 conversation with Mr. Seda, which you said yesterday you
22 were sure was in September, you may have had that
23 conversation sooner?

24 A. It may have been, yes. I -- unfortunately, I
25 can't pinpoint a date as to when we had that

1 conversation.

2 Q. Could it have been in February of 2001?

3 A. I would doubt it, because the information that
4 he sent to me for the '99 and 2000 year, he sent over, I
5 believe it was, May 16th of '01.

6 Q. So it couldn't -- you are saying the
7 conversation with Mr. Seda couldn't have been before
8 May 16th of '01?

9 A. That's correct, it --

10 Q. All right. But even if it was then, you
11 clearly knew about the Springfield property in February
12 and in early May when you hand wrote on the Eberle
13 check?

14 A. I may have known about it, but if you are
15 asking me to go back in my memory, what I remember is
16 that when we went over the \$131,000 check, that to me
17 seemed like the first time that we spoke about the
18 Springfield building.

19 Q. Yesterday -- and your memory yesterday was that
20 conversation was in September but now your memory is
21 different, you don't know?

22 A. No, I think I said yesterday I'm guessing it
23 was September 19th or 20th based on the billing records.

24 Q. All right. So you were guessing then.
25 Yesterday you said your analysis showed that

1 al-Haramain's accounting was woefully inadequate.

2 That's the term that you used, correct?

3 A. That's what I put in that letter to IRS, yes.

4 Q. And that was also based on your analysis? I
5 mean, you saw the deposits weren't entered right, there
6 were all sorts of problems?

7 A. That's correct, right.

8 Q. And they hired you to fix it, did they not?

9 A. Yes, to stay on top of it, you are correct,
10 right.

11 Q. And that's why you did this extraordinary
12 engagement letter, right?

13 A. Yeah, we did the engagement letter, yes.

14 Q. The extraordinary engagement letter because
15 they wanted you to fix it?

16 A. Right.

17 Q. And you also said yesterday that the typical
18 nonprofit is on a really tight budget, and so with a
19 typical nonprofit, you may be trying to cut as many --
20 not really cut corners, but try to get the very cheapest
21 approach for your services; is that right?

22 A. Yeah. What we try to do is get the people at
23 the nonprofit to do the detail work. Normally with most
24 nonprofits on their boards or they'll have volunteers
25 that have some sort of bookkeeping or accounting

1 background, and they'll do that for the nonprofit.

2 Q. But this was not -- to put it mildly -- a
3 typical nonprofit, was it?

4 A. Yes, sir, you are right.

5 Q. They were getting hundreds of thousands of
6 dollars coming in?

7 A. Right.

8 Q. Okay. So they weren't in any need to cut
9 corners, they wanted you to fix their accounting and do
10 it right?

11 A. Uh-huh.

12 Q. Yes?

13 A. Yes, yes, sir.

14 Q. All right. And let me show you 43539. Can you
15 expand the top. This is in June 6th of 2001 when you
16 were doing the work. At that point Pete Seda is asking
17 you to make him a monthly account and he wants a better
18 response time, right?

19 A. That's correct.

20 Q. And he was willing to pay for that, right?

21 A. Yes, he always paid his bills timely.

22 Q. Correct. And he was asking you for this
23 increased scrutiny to look and work hard on June 6,
24 2001, right when you were working on the taxes?

25 A. Right.

1 Q. Correct? The 2000 return, in fact, at issue in
2 this case was due on May 15th?

3 A. That's correct, right.

4 Q. Yesterday, from time to time, you'd say "Pete
5 sent you this" or "Pete faxed you that" or "Pete did
6 this." But really your communications at al-Haramain
7 were not with Pete Seda but they were with the
8 bookkeepers, were they not?

9 A. Generally the conversations with the
10 bookkeepers were when they called me. Generally when I
11 called al-Haramain, usually I spoke with Mr. Seda.

12 Q. But as far as faxing things to you or entering
13 things in QuickBooks, that sort of stuff, Pete Seda
14 never did any of that?

15 A. As far as I know, he did not.

16 Q. Correct. In fact, you said you never saw him
17 or knew of him to do anything like that?

18 A. Yeah, I don't think he did any of that.

19 Q. All right. Yesterday you said you got an
20 extension for the 2000 tax year, correct?

21 A. Right, yeah.

22 Q. Is that in your file anywhere?

23 A. Yes, it is.

24 Q. If you could look for the extension for the
25 2000, Form 990 in your --

1 A. No, I do not have that. I extended the 1120.

2 Q. Well, there wasn't an 1120 even in '99, was
3 there?

4 A. No, sir.

5 Q. And there wasn't going to be an 1120 in 2000?

6 A. No, there wasn't.

7 Q. Just for the jury, a Form 1120 is a corporate
8 tax return that a for-profit corporation files?

9 A. That's correct.

10 Q. Correct?

11 A. Yes, sir.

12 Q. A 990 is a not-for-profit corporation?

13 A. That's correct, right.

14 Q. All right. So there is no extension that you
15 got from the IRS for al-Haramain's 990 that was due on
16 May 15, 2000?

17 A. That's correct.

18 Q. And they imposed a large penalty on you,
19 correct?

20 A. Yes, they did.

21 Q. And the penalty was imposed starting from
22 May 15th, right, the due date? They did not impose --
23 they did not recognize any extension that you filed?

24 A. That's correct.

25 Q. So when you said you got an extension --

1 A. We had an extension until September 15th for
2 the organization, but, unfortunately, it was filed on
3 the wrong form.

4 Q. You filed it on the wrong form?

5 A. Yes, I did.

6 Q. Was that Mr. Seda's fault that you used the
7 wrong form?

8 A. No, that was my fault.

9 Q. That was your fault. Yesterday you testified
10 about a check that -- if I could ask that it be put on
11 from the government's exhibits BOA-6. You testified
12 that during one of the meetings with Pete Seda that you
13 had when you were going through the documents and
14 questions about the 1998 return, you asked him about
15 this check.

16 A. Yes.

17 Q. Okay. And you further testified yesterday, did
18 you not, that what he told you about this check caused
19 errors in both payroll taxes and fixed assets?

20 A. Well, if this check was for the purchase of a
21 computer, as he told me, then the entry was accurate.
22 If, instead, this check was for payroll, then it was
23 inaccurate. Then the coding was inaccurate based on the
24 information that he gave me.

25 Q. Okay. So you are saying that you had this

1 conversation with Pete Seda, he told you it was a
2 computer, because of that, you put it on fixed assets,
3 and, therefore, the return is wrong; is that what you
4 are saying?

5 A. I put it on fixed assets, yeah.

6 Q. Now, Mr. Wilcox, you first mentioned this
7 conversation only six years after you had started
8 talking to Colleen Anderson; is that right? You first
9 started talking to her in 2003 and you didn't mention
10 this to her until 2009?

11 A. That's correct.

12 Q. Okay. And this is the same conversation you
13 had with her where you had to admit to her that you had
14 told her things that were simply not true; is that
15 right?

16 A. I don't know what you are talking about. I'm
17 sorry.

18 Q. Well, she came to see you in 2009, right?

19 A. Yeah, we had a number of meetings over the
20 years.

21 Q. Yeah. Well, before this meeting in 2009 where
22 you looked at the audit trail, you had told her that
23 al-Haramain coded all of the checks on the Springfield
24 building schedule, had you not?

25 A. Yes, that's right.

1 Q. You told her that many times. And you told her
2 that many times that they printed the schedule and gave
3 it to you, correct?

4 A. That's correct, right.

5 Q. And in this conversation it was the very first
6 time that you told her that what you had said before was
7 incorrect?

8 A. Yeah. When she showed me the audit trail and I
9 compared the e-mail on May 14th, '01, from Mr. Seda to
10 the printout -- the e-mail of QuickBooks that I sent
11 back to him in January of '02, and I did the
12 comparisons, then I noticed it. The previous times that
13 I had met with Agent Anderson, I was going from memory.
14 And I didn't have any records available.

15 In some of those cases, I didn't have my files
16 available because they were taken away from me for a
17 period of time.

18 Q. I take it it was a difficult situation for you
19 to tell an IRS-CID agent that you had been telling her
20 false information for six years?

21 A. Yes.

22 Q. She was not pleased about the situation, I take
23 it?

24 A. I don't know. I didn't -- I never really
25 noticed her reaction. She seems to stay pretty level

1 all the time.

2 Q. But you were quite tense about it?

3 A. Well, I wasn't happy about it, but --

4 Q. Okay. And that's the conversation that you
5 gave her the information about the check with the --

6 A. Yes.

7 Q. -- 2006 -- okay. That's the first time you had
8 mentioned it. Now -- and by the way, you told her you'd
9 read a newspaper article, and that's what triggered your
10 memory, right?

11 A. Yeah, there was a magazine article that had
12 written that -- that talked about this with
13 Mr. Gartenstein. And when he mentioned kind of the
14 situation where there was a check written from -- by him
15 from al-Haramain and he said it was really for payroll
16 services, but -- in the article it mentioned that this
17 Mr. Gartenstein said that Mr. Seda wanted --

18 Q. You don't have to recite the article.

19 A. Okay.

20 MR. CARDANI: Excuse me, Judge, this is
21 directly relevant to the --

22 THE COURT: You may answer the question.

23 THE WITNESS: So in the article it said that
24 Mr. Gartenstein said that Mr. Seda told him he didn't
25 like paying payroll taxes, so he told him that he would

1 issue this check to you as -- he would -- al-Haramain
2 would issue the check to Mr. Gartenstein as if it was a
3 computer -- purchase of a computer.

4 And when I read that article, it immediately
5 triggered in my mind the meeting that I had many years
6 before with Mr. Seda about that check.

7 BY MR. MATASAR:

8 Q. So this supposed conversation you had with
9 Mr. Seda, if you had it -- or you had it and it caused
10 you to put the computer in the fixed assets category?

11 A. Yes, sir.

12 Q. Okay. Let me ask you to look at 43057. Expand
13 the whole first page. This is a fixed asset schedule
14 for '98, right?

15 A. Yes, sir, it is.

16 Q. The computer is not in there, is it,
17 Mr. Wilcox?

18 A. No, it's not.

19 Q. So you've testified, have you not, that the
20 conversation with Mr. Seda -- if you had the
21 conversation with Mr. Seda, it caused you to put the
22 computer into fixed assets?

23 A. Yes. And obviously by that schedule I was
24 incorrect.

25 Q. So there was no conversation with Mr. Seda?

1 A. There was a conversation with Mr. Seda about
2 that check.

3 Q. Didn't you say that the conversation with
4 Mr. Sedaghaty about that check caused you to put the
5 check into the fixed assets category in 1998?

6 A. I was pretty certain I put it there, but,
7 obviously, I didn't.

8 Q. But you remember this conversation six years
9 later because of a newspaper article you read?

10 A. It was a magazine article.

11 Q. I'm sorry, magazine article. You talked to
12 Colleen Anderson many times about this case, as you
13 said. Didn't one of the things you tell her was that
14 every time you talked to Pete Seda about a specific
15 item, you had a hard copy in your file?

16 A. I don't know if that's -- I don't remember
17 that.

18 Q. Is that your recollection, that when you talked
19 to him about something, you'd have a hard copy in your
20 file?

21 A. We sometimes -- we would try to most of the
22 time. I don't know if it happened every single time.

23 Q. There is no hard copy of this check in your
24 file, is there, Mr. Wilcox?

25 A. I don't think so.

1 Q. No. And your review and correction of the
2 al-Haramain data that they input, wasn't just something
3 that you did at the very beginning when you started on
4 the case, it was something that you did throughout your
5 work with them? That was what you were hired to do, to
6 continue to monitor?

7 A. Yes, sir.

8 Q. Continue to analyze?

9 A. Yes.

10 Q. And despite your efforts and their willingness
11 to pay you, they continued to have problems?

12 A. Yes, they did.

13 Q. And you told Ms. Anderson that they don't keep
14 the best records; is that fair to say?

15 A. That's correct.

16 Q. And from time to time there were control
17 problems with their record keeping system?

18 A. Okay. Yeah, that sounds familiar, yes.

19 Q. Okay. And I think you've indicated before, he
20 gave you specific instructions that the taxes be right
21 and the taxes be clean?

22 A. Yes, sir, he did.

23 Q. Now, Mr. Wilcox, even in circumstances where a
24 client doesn't tell you to keep the taxes clean, that's
25 really your job, right?

1 A. Yes, it is.

2 Q. Okay. And you have a duty to the public and
3 the government as well as to your client?

4 A. Yes, sir.

5 Q. That's, in effect, the P in CPA, certified
6 public accountant, that's an important part of your
7 professional responsibility?

8 A. Yes, sir.

9 Q. And so this requires you to obtain appropriate
10 data to prepare the tax returns, does it not?

11 A. Yes, it does.

12 Q. And when you see inconsistencies, where you see
13 issues that raise your concerns, you are required by
14 ethical principles to get additional information, are
15 you not?

16 A. Yes, I am.

17 Q. Make reasonable inquiries?

18 A. Yes, sir.

19 Q. And it's also true that the Treasury Department
20 of the United States has regulations requiring you to
21 use due diligence in the preparation of materials?

22 A. Yes, sir.

23 Q. And if you do not, you could be suspended,
24 disbarred, not just by the Oregon Board of Accountants,
25 but also by the Internal Revenue Service and the

1 Treasury Department?

2 A. That's correct.

3 Q. And you already had a problem with the Oregon
4 CPA board, did you not? You had a short, I think,
5 letter of admonition for filing your -- or filing your
6 license late, something like that?

7 A. Yes, I had a letter of concern from them.

8 Q. Now, Mr. Wilcox, you indicated that Mr. Seda
9 got a -- I think you called it a provisional ruling or
10 advance ruling?

11 A. Advance ruling.

12 Q. Okay. And what that means is he is certain,
13 100 percent certain, even if he hadn't been certain
14 already, but based on the fact that he got an advanced
15 ruling, that he was 100 percent certain that the IRS was
16 going to scrutinize this tax returns in five years?

17 A. That's correct.

18 Q. Is that fair to say? Okay. So he knew that
19 was coming for sure.

20 Now, you say you're experienced in nonprofits.
21 So -- and we briefly discussed your proposal letter in
22 which you said you were -- worked for a large national
23 firm where one of your specialties was nonprofits; is
24 that correct?

25 A. Yes, that's correct.

1 Q. Right?

2 A. Yes.

3 Q. And when a -- when the IRS determines an
4 organization is tax exempt, they send you a letter
5 telling you so, right?

6 A. That is correct.

7 Q. Let me show you 43075. And this essentially
8 says, dear applicant, congratulations, you're tax
9 exempt?

10 A. Yes, this is the advance ruling letter.

11 Q. Okay. And doesn't the second page of that give
12 you further information about other taxes that you don't
13 have to pay, federal unemployment tax act cases, federal
14 unemployment tax act?

15 A. Yes, it does.

16 Q. Okay. Now, Mr. Wilcox, shortly after you got
17 that letter, I'll show you 42671, you told al-Haramain
18 to pay federal unemployment tax?

19 A. Yes, I did.

20 Q. And they didn't need to pay that tax, did they?

21 A. They did not.

22 Q. And so let me show you 43660. After you
23 paid -- well, first of all, you told Pete Seda to pay
24 the federal unemployment tax and he did it, right?

25 A. That's correct.

1 Q. He followed your wishes, you did something that
2 was incorrect, and he doesn't know, he just signs the
3 paper?

4 A. That's correct.

5 Q. And that's pretty much how it went?

6 A. Yes, sir.

7 Q. All right. So after he paid it, there was a
8 refund check that -- or a refund letter that was sent
9 back to al-Haramain, correct?

10 A. That's right.

11 Q. Saying you are not required to file this form.
12 And then they faxed that to you, did they not? Look at
13 the top left of this document.

14 A. Yes, that's from al-Haramain's office, right.

15 Q. So didn't you then -- even though you got that,
16 didn't you -- and I'll show you 43634 -- didn't you tell
17 them again to pay federal unemployment tax?

18 A. Yes, sir.

19 Q. And that was wrong as well?

20 A. That's correct, it was.

21 Q. And you got a refund for that, 42650, they got
22 a refund?

23 A. Yes, sir.

24 Q. And then in 43624 you told them yet again to
25 pay federal unemployment tax?

1 A. This filing instruction tells me to sign and
2 mail the return.

3 Q. Okay. Is that -- how about 43628?

4 A. Yes, that's correct, right.

5 Q. And what you are telling the IRS there is that,
6 yes, there may be an overpayment, but you want it to be
7 applied to the next return, which means you are going to
8 file yet another unemployment tax return you don't need
9 to file?

10 A. Yes, sir.

11 Q. Okay. And you kept doing that throughout the
12 time with --

13 A. Yes, I did.

14 Q. Okay. And that was -- none of that was
15 Mr. Seda's fault?

16 A. No, wasn't. That was my fault.

17 Q. Mr. Wilcox, I'm going to show you some other
18 documents about your preparation of the '98/'99 returns.

19 Isn't it fair to say that one of the basic
20 bedrock principles of accounting is the year end of year
21 one numbers have to be the identical number as the year
22 beginning of the next year?

23 A. Yes, it would be.

24 Q. Okay. So let me show you 43008. And that
25 shows cash at the end of tax year 1998 as \$13,294?

1 A. That's correct.

2 Q. And if you look at 42900, that shows, at the
3 beginning of the next year, 11,994. Maybe we can put
4 them both on the page at the same time. So here you
5 see, Mr. Wilcox, that the end of one year has a
6 completely different number than the beginning of the
7 next year, correct?

8 A. That's correct, right.

9 Q. And this bedrock principle you didn't follow?

10 A. No, I obviously didn't.

11 Q. And was this Mr. Seda's fault?

12 A. No, it was not.

13 Q. Did you have a conversation with him about
14 this?

15 A. No, sir.

16 Q. He didn't cause you to do this?

17 A. (Shaking head).

18 Q. Let me show you 43008. That shows \$15,000 at
19 the end of the tax year '98 for other current
20 liabilities.

21 A. Yes, sir.

22 Q. And how about 42900, that's the next year.
23 That's where the current liabilities should be, isn't
24 it?

25 A. That's where it should be.

1 Q. And the 15,000 disappeared?

2 A. That's correct.

3 Q. That's not Mr. Seda's fault, is it?

4 A. No, it's not.

5 Q. Let me just show you another one. Would you be
6 surprised to hear that there are numerous errors like
7 this throughout your work, year end, year beginning?

8 A. The '98 information I got from Mr. Seda, I
9 tried to reconcile as closely as possible. And going
10 from '98 and 99, yeah, there were some gaps. And all I
11 can tell you is I didn't get it nailed down perfectly.
12 I didn't get it nailed down properly, actually.

13 Q. Mr. Wilcox, there is no -- are you suggesting
14 that there can be an explanation -- there can possibly
15 be a reason why the year end cash in one year would be
16 different than the year beginning cash the next year
17 based on what somebody tells you?

18 A. No. As long as I had the bank statements, I
19 should be able to go from one year to the other.

20 Q. What do the bank statements have to do with it?
21 Isn't it simply looking at the previous year return and
22 plugging that number in to the beginning of the next
23 year?

24 A. That's -- yeah, that's generally how it's going
25 to work. What the bank statements do is they reconcile

1 the year end so that you -- the ending balance then
2 becomes the beginning balance of the next year, and it
3 flows.

4 THE COURT: We're going to take a short break
5 at this time.

6 (Recess: 9:13 until 9:28 a.m.)

7 MR. CARDANI: Judge, it's my understanding
8 based on your ruling yesterday that we'd be given some
9 time to prepare for redirect.

10 THE COURT: Yes.

11 (Jury enters the courtroom at 9:29 a.m.)

12 THE COURT: Thank you for your patience. Go
13 ahead.

14 MR. MATASAR: Your Honor, I understand that due
15 to a minor technical error, none of the documents on
16 this screen were shown to the jury. I'm not going to
17 show them right now. We'll take that up later, but
18 there is one I would like to show.

19 THE COURT: Is it a document which has been
20 received?

21 MR. MATASAR: Yes. It's part of the FPDUS
22 documents.

23 THE COURT: You may.

24 BY MR. MATASAR:

25 Q. Mr. Wilcox, I'm just showing you on the screen

1 something that was shown to you before. This is the --
2 on the top, is it not, the 1998 tax return that shows
3 the cash at the end of the year as 13,294, and at the
4 bottom of the screen, it's the 1999 tax return that
5 shows the cash at the beginning of the year with a
6 different number?

7 A. That's correct, right.

8 Q. Okay. Mr. Wilcox, you prepared the Form 1023;
9 is that correct?

10 A. Yes, sir.

11 Q. And what is the Form 1023? I'll show you page
12 2 of it which is 43194. Why don't you tell the jury
13 what a Form 1023 is.

14 A. It's an application for an organization to be
15 classified as tax exempt -- under the tax exempt status
16 rules of IRS.

17 Q. So in this case when you filled it in, your
18 very first sentence that you hand wrote or that you
19 typed in on number one is the most significant activity
20 is the publication of Islamic books; is that right?

21 A. Yes. Mr. Seda gave me this information so I
22 put it on the form.

23 Q. Okay. And originally you applied to be a
24 church; is that right?

25 A. Yes, sir.

1 Q. And you have to provide a Schedule A for
2 churches when you do that. And that's 43202. At the
3 top of that, you explained to the IRS that the
4 foundation was formed to provide a book distribution
5 system, correct?

6 A. Yes, sir.

7 Q. And, again, at page 43196, top section, it says
8 there is an inventory of the spiritual books. By the
9 way, you were at the prayer house several times, you saw
10 there is lots of books there?

11 A. Yes. Not at this point in time --

12 Q. Not at this point?

13 A. Yes, but, yes, sir.

14 Q. Over the years you've been to the prayer house
15 and saw lots of books?

16 A. I -- when I was at the prayer house, I would
17 typically go straight downstairs to where the two women
18 were working that I was to assist with the QuickBooks.
19 So that's really about the only place that I saw.

20 I know one time Mr. Seda took me down the hall
21 to introduce me to someone, and I noticed there was --
22 looked like a library with a bunch of books.

23 Q. But you knew that what they were doing was
24 distributing books?

25 A. Yes, sir.

1 Q. And you got a specific response from the IRS to
2 your application. I think you testified yesterday that
3 there was some back and forth?

4 A. Yes, sir.

5 Q. Right? And you got a letter which is 43158.
6 And they are asking for some questions and some
7 information. And you responded in 43156, I guess. Yes.
8 Look at number five there. You say -- you talk about
9 the publications and the books and that sort of thing.

10 A. Yes, sir.

11 Q. And later you got another letter, 43129, from
12 Jennifer Nicolin, the woman you discussed yesterday.
13 That's a letter September 6th. And if you look at the
14 second page of the letter, that's 43130, number three
15 there, it says the IRS is essentially telling you that
16 because books is so important, that it's probably better
17 not to be a church, but that they are going to give a
18 different kind of 501(c)(3) status, right?

19 A. That's correct.

20 Q. Now, Mr. Wilcox, in your Form 1023 that you
21 prepared, 43201, you listed an inventory for books,
22 right?

23 A. Yes. This was an estimate provided to me by
24 Mr. Seda.

25 Q. Okay. And I just want to show you a little bit

1 more information in the tax returns. Let me show you
2 42897. You see the highlighted numbers that you put in
3 the tax return there for postage. They had \$17,000
4 worth of postage that year?

5 A. Yes, sir.

6 Q. And in the next year, 42319, the year 2000,
7 there was \$19,000 for postage?

8 A. Yes, sir, that's right.

9 Q. And, Mr. Wilcox, in the '99 return, 42900, you
10 had no inventory for books, zero?

11 A. Yeah, that's correct. Normally what would
12 happen when they publish their books, they would ship
13 them out pretty promptly. And so if there was an
14 inventory, it might have just been a few hundred to a
15 thousand dollars or something. It was such an
16 insignificant amount, that we never bothered to
17 inventory that. We just ran everything through the cost
18 of the publications and their postage expense.

19 Q. Didn't the Saudi branch send them thousands of
20 books?

21 A. I'm sorry?

22 Q. Do you know that they got their books from
23 Saudi Arabia?

24 A. No, I didn't.

25 Q. You didn't talk to them about how to account

1 for all the books that they were dealing with?

2 A. No. When the cost -- if there was any costs
3 involved, then we just expensed it. We didn't bother
4 setting it up in inventory because the idea was to keep
5 the inventory as minimal as possible. That they would
6 get books in, ship them out, and that sort -- that's the
7 process. So in a case like that, there is really no
8 need to do inventory.

9 Q. How about when you get books donated from
10 another organization, isn't that an in-kind contribution
11 that must be reflected on the tax return?

12 A. No. If it's -- you are saying if it's donated
13 from another organization?

14 Q. If al-Haramain Saudi Arabia gave them thousands
15 and thousands of books to distribute to people in the
16 United States or elsewhere, wouldn't that fact that they
17 were being given these books and then paying tens of
18 thousands of dollars for postage to send them out,
19 wouldn't first the donation or the incoming books to
20 al-Haramain U.S.A. be reflected on the tax return
21 somewhere?

22 A. No. Because they came to them at zero cost.

23 Q. There is no in-kind contribution rule that if
24 you get something that you don't pay for, that it has to
25 be considered in a tax return?

1 A. Not in a case like this.

2 Q. Okay. And the same thing with sending it out,
3 that's not a grant or donation?

4 A. No. When it goes out, it -- you have a
5 shipping charge and so then that's your expense right
6 there.

7 Q. All right. So let's just use one example.
8 Somebody gives you 100 books worth \$20 each, \$200, that
9 200 doesn't go on line one, contribution, and when you
10 send it out, it doesn't go on line 22, grants or
11 allocation; that's your testimony?

12 A. Yes, that's my testimony, that's right.

13 Q. Okay. Mr. Wilcox, you prepared the Form 990
14 that's the heart of this case, right?

15 A. Yes, sir.

16 Q. In your file, that's 43218. It's also IRS-1,
17 but I think you'll be more familiar with your file.

18 A. Okay.

19 Q. 43220 is the page on that return that lists --
20 that has line 57a, right?

21 A. That's correct, right.

22 Q. And that's your number? I mean, that is the
23 number you put in there for land, buildings and
24 equipment?

25 A. Right, correct.

1 Q. Wrong number. I'm sorry, I may have the wrong
2 number, but line 57a on that return has the number that
3 you put in. My dyslexic speech.

4 Now, Mr. Wilcox, you also prepared Form 1120,
5 did you not?

6 A. Yes, that's right.

7 Q. And on that form, that's the corporate tax
8 return because they hadn't been given tax exempt status
9 yet. So for 1998, you prepared a different number
10 return but it's pretty similar in most ways, right?

11 A. Yes, you could say that.

12 Q. That's 43005.

13 A. Yes, sir, that's it.

14 Q. So, Mr. Wilcox, on that return, on 43008, there
15 is a line 10a, and that is the place where you put
16 buildings, correct?

17 A. Buildings and fixed assets, that's right.

18 MR. CARDANI: Excuse me, I'm sorry, excuse me,
19 Counsel, for clarification we're talking about 1998 tax
20 return?

21 MR. MATASAR: Correct, correct.

22 MR. CARDANI: Okay. Thank you.

23 BY MR. MATASAR:

24 Q. And, Mr. Wilcox, that line essentially is
25 equivalent to the line 57a that's at issue in this case

1 on the 990, right?

2 A. That's correct.

3 Q. So the -- both of them are supposed to reflect
4 the value of buildings owned by the organization at the
5 end of that year, correct?

6 A. Yes.

7 Q. Okay. And on this return, Mr. Wilcox, if you
8 look at 43005, you see a line for taxes, right?

9 A. That's right.

10 Q. And you submitted a schedule to go with that
11 43012, that \$3,010, and you said --

12 A. Right.

13 Q. -- that they paid \$3,010 in property taxes?

14 A. That's correct, right.

15 Q. Okay. Now, in your opinion as a CPA, isn't
16 that a huge amount of property taxes for a \$10,000 worth
17 of fixed assets?

18 A. No, that 3000 was on the building.

19 Q. Okay. But the building was not on the return?

20 A. Yes. That was a tax decision I made and
21 discussed with Mr. Seda. And if you want, I can go
22 through that conversation.

23 Q. Please do. Is there a discretion? Can
24 somebody say not to put a building on a tax return if
25 they owned the building?

1 A. Now, I felt there was justification for it. So
2 what you are -- as I discussed with Mr. Seda, here is
3 how it works. You are dealing with two sets of tax laws
4 here, a corporation income tax and tax exempt tax law.
5 Now, in a corporation, if there is a building put into a
6 corporation return, if eventually you sell the building,
7 there is a gotcha way that IRS can tax the proceeds of
8 that building two times, once at the corporate level,
9 then when the proceeds are distributed to the
10 shareholders, it could be taxed at a shareholder level.

11 So for proper tax planning in the corporation
12 income tax area, you try to keep buildings out of the
13 corporation. Okay?

14 Now, on the tax exempt tax laws, if you sell --
15 have a building, where you sell it, you generally don't
16 have that problem because the proceeds are reinvested,
17 you buy another building, and it's used within the tax
18 exempt purpose, and you are fine.

19 What I didn't want happening is that I don't
20 want to show the building on the '98 return, and then
21 later on al-Haramain goes to sell the building, IRS
22 comes waltzing in flashing a copy of the '98 return, and
23 say, look, you put a building in a corporation return,
24 you just sold the building, we got you. And so they
25 could be potentially looking at huge tax liabilities.

1 So I told Mr. Seda, here is how we'll sell this
2 to IRS. We're going to start on the '99 tax exempt
3 return. That's where the building and its depreciation
4 will start. And here is the reason why we do this and
5 we leave it off the '98: It was al-Haramain's intention
6 from the get-go to be a nonprofit -- to be a tax exempt
7 organization. And so we've got facts and circumstances
8 that say that '98, we filed the corporation return, but
9 it was only because administratively we never got the
10 1023 started.

11 And I told Mr. Seda I was confident that I
12 could sell that argument to IRS if the building was ever
13 sold and we ever came up to that situation. That's why
14 the building is not on the '98 tax return.

15 Q. So the idea was to keep from the IRS the
16 information that you owned the building?

17 A. No, sir, it wasn't to keep that at all.

18 Q. What was the idea then? I'm not sure what you
19 are saying.

20 A. The idea was for tax planning purpose to avoid
21 a potential tax on the sale of that building because we
22 put the building on the corporation tax return, and so
23 using a facts and circumstances argument that IRS will
24 accept, we started the depreciation, we started -- we
25 showed the building on the '99 nonprofit return, 990.

1 Q. And do you have anything in your file that
2 reflects this conversation with Mr. Seda?

3 A. No.

4 Q. And do you have anything in your file that
5 reflects your -- or any rulings or Revenue Code numbers
6 you could give me that indicate that if a corporation
7 owns a building, they cannot put it on the tax return?

8 A. No, probably not.

9 Q. And, really, probably the -- it does matter
10 that much to the IRS anyway, does it? Is that sort of
11 what you are saying the value -- what the -- if they put
12 the value of the building on the return?

13 A. I'm sorry, I didn't understand the question.

14 Q. I guess the question is: In your view is it
15 material to the IRS that the value of a building is
16 properly reflected on the return?

17 MR. CARDANI: Excuse me, object, Judge, as to
18 materiality on IRS's concern.

19 THE COURT: Sustained.

20 BY MR. MATASAR:

21 Q. In any event, Mr. Wilcox, this whole idea for
22 your plan was your idea, not Mr. Seda's plan?

23 A. Yes, it was.

24 Q. Mr. Wilcox, you prepared the Form 990 for the
25 year 1999; is that correct?

1 A. Yes, sir.

2 Q. And on that form at 42 -- I may have the wrong
3 number here. I think it's 42897. That's a statement of
4 functional expenses. You indicate legal fees?

5 A. Yes, sir.

6 Q. Okay. Now, in the -- in your preparation for
7 legal fees to prepare the return, you printed out a
8 profit and loss schedule on June 13, 2001, did you not?
9 That's -- let me show you --

10 A. I don't --

11 Q. -- 42919.

12 A. Yes, you are right.

13 Q. And it may take a few steps, but I wanted to
14 ask you about legal fees on that return. Before you
15 printed that out, at 6:13 -- I'm sorry, at 2:36, do you
16 see the top left corner there?

17 A. Yes.

18 Q. I'm going to show you 42918, and if you look at
19 the top left there, that was 1:41 on 6/12, so that was
20 the day before?

21 A. Yes.

22 Q. Okay. So the day before you were at 51,000,
23 you were at 73,000; is that correct?

24 A. That's correct, right.

25 Q. And that's professional fees?

1 A. That's right.

2 Q. Professional fees is a category in QuickBooks,
3 right?

4 A. Well, yes, it is. You can set it up on any
5 software program professionally, yes.

6 Q. But what your job was, in effect, was to figure
7 out how to get the professional fees item in QuickBooks
8 into a legal fees item which is a line item on the tax
9 return?

10 A. That's correct, right.

11 Q. So the IRS wants to know about legal fees. But
12 for one reason or another, the QuickBooks program just
13 has professional fees. So maybe accounting fees would
14 go somewhere else and you gotta take those out,
15 et cetera, right?

16 A. That's correct, right.

17 Q. Okay. So you had this -- let me show you
18 42923, okay, that's a list from QuickBooks of all the
19 professional fees, correct?

20 A. Yes, at this point, it is, that's correct.

21 Q. Everything that they -- they coded those?

22 A. Yes, the '99 entries were input by al-Haramain,
23 correct.

24 Q. Okay. And you see that one of them is a
25 \$50,000 check to a firm called -- or Akin Gump, looks

1 like a law firm, and it's \$50,000?

2 A. Yes.

3 Q. And you make notes in your work papers, if we
4 can look at the bottom of that, you make notes in your
5 work papers to help you figure out what these entries
6 are, correct?

7 A. Right.

8 Q. And you put a number two next to the 50,000 and
9 then you wrote something, right?

10 A. Yes, right.

11 Q. Okay. And that's because Pete Seda told you
12 that they paid \$50,000 to a lawyer because they were
13 suing Frontline for something that they said that they
14 thought was not true?

15 A. Yes, that's correct.

16 Q. Okay. And isn't it true, Mr. Wilcox, that when
17 people pay a law firm a retainer, that that money
18 doesn't belong to the law firm when it's paid, correct?

19 A. Well, yeah, as I understand -- yeah, the money
20 is there until the services are rendered.

21 Q. Correct. So it's really the client's money
22 until the law firm uses it, right?

23 A. Yes, that's right.

24 Q. So it really technically wouldn't be \$50,000
25 for legal fees until they start billing, correct?

1 A. That's correct, right.

2 Q. Now, I want to ask you, though, about the 120,
3 \$1020 that you have that make the total of 5120. Okay.
4 Do you see that? We could go back to the schedule on
5 the return. Do you have a number for that one? 42897.
6 Okay. We've talked about the 50,000. I want to ask you
7 about the other \$1,020, which you determined was legal
8 fees, right?

9 A. Yes, sir.

10 Q. Okay. In order to get to that number, you used
11 a piece of ledger paper, right? Let me show you 42924.
12 Okay. And what you did with that was -- and I won't
13 show it here, but you looked at that long, long list of
14 professional fees, and you listed a bunch of them as
15 either Ashland building or educational film. And what
16 you did was you took them out of that \$73,000?

17 A. That's correct, yes.

18 Q. And so as you did that, and I think Ms. Wells
19 has a way to show that -- which ones of these were part
20 of the other return of these, correct? This is the
21 \$73,000. And if we can show which ones were on your
22 ledger paper, do you see those? Those are all the ones
23 that were on the ledger paper. And if you want, you can
24 check, if we can put them side by side. Yeah. Okay.

25 All the ones that are in yellow that -- you can

1 look next to them, the 2700, the 528, the 2760, each one
2 of those are in the column that adds up to 73,460. Do
3 you see those, Mr. Wilcox?

4 A. Yes, I see those.

5 Q. The purple ones, the building and et cetera.
6 So what we're going to do is we're going to take them
7 out and show you the number of 51,020. Those are the
8 ones that are remaining, if we can make those bigger.

9 So the sum total of those columns, if you can
10 take a quick look, Mr. Wilcox, if look at the 93,135, if
11 you can just eyeball that.

12 A. I'm sorry, where are you at here? Oh, on --
13 okay. 42923?

14 Q. Yeah, the one that's on the screen.

15 A. Okay.

16 Q. If you can eyeball that, that looks like a
17 correct total?

18 A. The correct total for what?

19 Q. For the numbers in that column that were
20 remaining -- you got to 51,020 on the tax return for
21 legal fees, correct?

22 A. Okay, yes, okay, I see, yeah, yeah, yeah, I do.

23 Q. So these are the numbers that got you to the
24 51,020, right?

25 MR. CARDANI: Judge --

1 THE WITNESS: Yes, I think so.

2 MR. CARDANI: Can I ask a question? That
3 51,000 that we see on the bottom right-hand corner, who
4 put that there?

5 MR. MATASAR: That is a visual aid for
6 demonstrative purposes. That was not on there. I'm
7 asking Mr. Wilcox if that's a correct total.

8 MR. CARDANI: Thank you.

9 THE COURT: That's not in evidence, right?

10 MR. MATASAR: No, correct.

11 THE WITNESS: Yeah, yes, that looks like it's
12 correct.

13 BY MR. MATASAR:

14 Q. So, Mr. Wilcox, out of those numbers -- and
15 maybe we can look at the whole 42973 so you can see
16 the -- so just starting with the name, memo, and amount.
17 So, Mr. Wilcox, the \$93, it says videotapes?

18 A. Uh-huh.

19 Q. How did you come to the conclusion that that
20 was legal fees?

21 A. Generally on this -- well, I don't remember
22 exactly. But generally on this schedule, this was the
23 type of schedule I'd sit down, meet with Mr. Seda, and
24 we'd go through and we'd -- and he'd indicate what they
25 were for.

1 Q. So is it your testimony that for the \$50 one,
2 the fourth one down, that Mr. Seda told you that horse
3 shoeing was a legal fee?

4 A. I don't remember.

5 Q. Do you know what farrier services are, the \$110
6 further down?

7 A. That's definitely for a horse or maybe it was
8 for their camel.

9 Q. And did he tell you that was a legal fee?

10 A. I doubt if he told it to me.

11 Q. But you put it down there?

12 A. Right, yeah.

13 Q. Now, Mr. Wilcox, I wanted to ask you a further
14 question about these -- this \$50,000 in legal fees. One
15 of the things that -- let me show you a bank statement.
16 They faxed their banks statements to you from time to
17 time?

18 A. Yes, they did.

19 Q. 42379. And if you look at the top left, you
20 got it from them May 16, 2001?

21 A. Yes, sir.

22 Q. And one of the things on there is, if you look
23 on 7/5, a deposit of \$18,634.78.

24 A. Uh-huh.

25 Q. And I assume right now you can't, off the top

1 of your head, say what that's for?

2 A. No, sir, I can't.

3 Q. And I think you testified yesterday that one of
4 the things you would do is you would ask al-Haramain to
5 fax you information from time to time to help you figure
6 out what went where?

7 A. That's correct.

8 Q. Okay. And let me show you 42352. This is the
9 kind of fax that you would get from them, correct?

10 A. Yes, sir.

11 Q. And do you see what's highlighted there?

12 A. Refund check from Mark McDougal, attorney.

13 Q. Right. And do you remember them telling you
14 that they were successful in their lawsuit, it took less
15 time, so they got a refund from their lawyer?

16 A. I don't remember that.

17 Q. But clearly it says refund check?

18 A. Yes, sir, it does.

19 Q. Okay. And so if you go back to 42379, you see
20 that that 18,634.78 was part of the deposit for that
21 month, correct?

22 A. Yes, it was.

23 Q. If you look to the right, the total deposit for
24 that month was 18,747, right?

25 A. Right.

1 Q. And isn't it true that a lawyer funding a
2 retainer is not making a contribution to the
3 organization?

4 A. That's right, he's not.

5 Q. Right? So that money should not go as a
6 contribution, should it?

7 A. It should not.

8 Q. Okay. Do you know what he did with that? Can
9 I show him --

10 A. No.

11 Q. Is 755 -- I would like to not publish this,
12 because I'm not sure if it's in. Can we show 755.7,
13 page 49. Do you see that, Mr. Wilcox?

14 A. Yes.

15 Q. That's part of what Colleen Anderson brought
16 for you -- brought to you?

17 A. Yeah. This is from the audit trail.

18 Q. Yeah. She brought it to you, you looked at it.
19 Does that refresh your recollection whether you put this
20 refund from the lawyer as a contribution into
21 QuickBooks?

22 A. Yes, I did put it as contribution income.

23 Q. And that was incorrect?

24 A. Yes, it was.

25 Q. Was that Mr. Seda's fault?

1 A. No, sir, it was my fault.

2 Q. You testified yesterday, Mr. Wilcox, about the
3 \$21,000 that Soliman al-But'he had made -- or a check --
4 \$21,000 check and they sent it back to him; is that
5 right?

6 A. That's right, yes.

7 Q. You said you asked him what it was for, and he
8 said it went to Soliman -- came from him and went back,
9 or went back to Soliman, correct?

10 A. Yes, that's right.

11 Q. And you had talked about this \$21,000 from time
12 to time with Mr. -- I'm sorry -- with Colleen Anderson
13 and also Mr. Charlton?

14 A. I'm sorry, Mr. Who?

15 Q. Wasn't there sometimes another IRS agent
16 present when Colleen Anderson was meeting with you?

17 A. There was on one occasion someone from the
18 Seattle office. I think he was an expert in tax exempt.

19 Q. Yes. His name might have been Kurt Charlton,
20 does that name ring a bell? If you don't know his name,
21 that's fine.

22 A. No, it's Greg -- that name doesn't ring a bell.

23 Q. Now, when you were talking to them, you spoke
24 about a lot more than the \$21,000 check, right?

25 A. Yes.

1 Q. And you told them, for example, that there was
2 \$614,000 that was booked as a -- contributions for the
3 year?

4 A. That's right.

5 Q. And you also told them big dollars went to
6 Soliman al-But'he, right?

7 A. I probably did, yes.

8 Q. And so one thing, by the way, when you talked
9 about Soliman al-But'he, he was in your mind al-Haramain
10 Saudi Arabia, correct? You didn't really differentiate
11 between him and al-Haramain Saudi Arabia?

12 A. No. I just knew that Mr. Seda mentioned the
13 name a lot. I didn't know what the connection was. I
14 just figured he was an individual with the al-Haramain
15 Foundation.

16 Q. Right. But in your books when you said there
17 was a contribution, you listed the contributions as from
18 Soliman al-But'he. You didn't say contributions from
19 al-Haramain Saudi Arabia?

20 A. That's correct, right.

21 Q. Okay. And you knew there was an al-Haramain
22 Saudi Arabia?

23 A. Yes, I did.

24 Q. So saying big dollars went to Soliman is not
25 any different than saying big dollars went to

1 al-Haramain Saudi, same sort of idea?

2 A. Okay. I guess I'd agree with that.

3 Q. Okay. And so isn't it true that Pete Seda told
4 you that not just the \$21,000 but the \$131,000, those
5 big dollars went to Soliman al-But'he?

6 A. No. When I asked him about the \$131,000,
7 that's when he told me it was part of the Springfield
8 building.

9 Q. So when you say big dollars were going to
10 al-Haramain Saudi Arabia, what number would you say is
11 big dollars?

12 A. That 21,000.

13 Q. That's out of 614, big dollars means just 21?

14 A. I don't remember saying "big dollars," but if
15 that's what I told Agent Anderson, then yeah.

16 Q. At one point yesterday, Mr. Cardani asked you
17 if the entire \$151,000 were given back to Mr. al-But'he,
18 would that have had an effect on line 22?

19 A. On the 2000 return?

20 Q. Right. Do you remember that question?

21 A. Yes, I think I do.

22 Q. Okay.

23 A. Yes, if that money -- line 22 is the grants and
24 allocations line. If that money was misclassified in
25 some area and it belonged here, then line 22 would be

1 incorrect.

2 Q. Okay. So if the entire 150 were given back to
3 Mr. al-But'he, you'd have some concerns?

4 A. Yes, sir.

5 Q. Okay. So let me ask a question, hypothetical
6 question, Mr. Wilcox. You know there was \$150,000 given
7 by Mr. El-Fiki to al-Haramain, right?

8 A. Yes, sir.

9 Q. If he intended that money to go to al-Haramain
10 Saudi Arabia in the first place, not to al-Haramain
11 United States, okay?

12 A. Uh-huh.

13 Q. Assume that that's the case.

14 A. Okay.

15 Q. If that were true, isn't it true also that that
16 money need not be reflected on line 1 or on line 22?

17 A. Yeah, that would be correct because it would be
18 a wash transaction.

19 Q. Right. You could back it out, and you've
20 backed out other transactions in the past. Mr. Wilcox,
21 I'd like to ask you about what we've called the
22 Springfield building schedule. If -- I think it's a
23 government exhibit. Can you pull it up without the
24 number? I'll get you the number in a second. Do you
25 have a number?

1 While we're looking for that, Mr. Wilcox, the
2 first time you met with Colleen Anderson was the day she
3 brought you a subpoena; is that right?

4 A. Yes, sir.

5 Q. And on that day -- so the first time you met
6 with Colleen Anderson was the day she brought you a
7 subpoena, right?

8 A. Yes, sir.

9 Q. That was June 12, 2003?

10 A. Yes.

11 Q. Okay. And you really weren't prepared to talk
12 to her that day very much, right? You were kind of
13 surprised?

14 A. Yes, I was completely surprised.

15 Q. She asked you a few questions about the
16 returns, a bit about the mosque purchases, that sort of
17 thing?

18 A. Yeah, that sounds familiar.

19 Q. And didn't you tell her at that time you may
20 have gotten copies of the escrow purchases -- or of the
21 escrow statements for both mosque purchases?

22 A. I don't know if I did.

23 Q. You don't remember telling her one way or the
24 other?

25 A. No, I can't remember.

1 Q. You made arrangements with her to interview you
2 in detail a second time?

3 A. That's right.

4 Q. So she came again to see you five days later,
5 you knew she was coming, right?

6 A. That's right.

7 Q. She brought another agent?

8 A. Yes.

9 Q. And one of the things they were most concerned
10 about, were they not, was the Springfield building
11 schedule? Could you show it to the witness. This piece
12 of paper.

13 A. Well, at that meeting with Agent Anderson, and
14 I believe that was the -- the other agent was the tax
15 exempt specialist out of Seattle. It was about a
16 four-and-a-half hour meeting, and -- yeah, we might have
17 gone over this, but I can't tell you in detail. It
18 covered quite a bit that night.

19 Q. Well, didn't you tell them at the time that the
20 organization coded the checks?

21 A. Yes, I probably said that.

22 Q. And didn't you tell them that they gave you
23 this piece of paper?

24 A. Yes, I did.

25 Q. And by saying that the organization coded the

1 checks, what you are saying is the organization told you
2 in this document what the checks were for?

3 A. Yes, yes, sir.

4 Q. And didn't in this meeting, this June 2003
5 meeting, didn't Colleen Anderson and Greg Wooten
6 specifically ask you about conversations between you and
7 Mr. Seda about this?

8 A. Yes, I'm pretty certain.

9 Q. And you didn't tell them anything about it, did
10 you? No conversations?

11 A. I'm sorry?

12 Q. Did you tell them anything about conversations
13 you had with Mr. Seda about any of these numbers?

14 A. If we discussed it at that meeting, I would
15 have pointed -- well, I don't know if I did at that
16 meeting or not, but these -- I had conversations with
17 Mr. Seda because that's how I knew to code these amounts
18 here into the Springfield building account.

19 Q. You are saying that now, right? You are saying
20 now -- just now you said you had conversations with
21 Mr. Seda and that's how you knew how to code these
22 numbers, right?

23 A. That's correct, right.

24 Q. But seven years ago, you didn't tell that to
25 Colleen Anderson, you didn't say you had conversations

1 with Mr. Seda so you could code them, you said he coded
2 them?

3 A. Well, yeah, I made that statement. For
4 instance, on most of the QuickBooks input for '99 and
5 2000 after the two women had been trained on the input,
6 they would input those into the computers. So,
7 indirectly, they've done the coding that way. And,
8 yeah, there was certain accounts where I would have to
9 make adjustments or I would have to ask questions that I
10 would end up coding those amounts in. So it wasn't all
11 done by them or all done by me. It was that sort of
12 process.

13 Q. Again, you are telling us that now, but then
14 you simply told them, when they showed you this piece of
15 paper, that they coded it and they gave you the piece of
16 paper?

17 A. Yeah, that's what I assumed at that time.

18 Q. And you talked to them again in November 2003,
19 maybe five months later?

20 A. I'll assume you are correct, yeah.

21 Q. Okay. And at that time they showed you the
22 escrow statement, did they not?

23 A. Yes, I believe -- I know eventually I was shown
24 the Springfield escrow statement, correct.

25 Q. And you knew that the value of the building on

1 the escrow statement was 381, right?

2 A. Yeah, when I looked at the escrow statement,
3 yes.

4 Q. Okay. And you have here 461?

5 A. That's correct.

6 Q. So Colleen Anderson asked you how the numbers
7 are wrong, right? Why is it wrong?

8 A. Right.

9 Q. You -- she, in effect, told you the tax return
10 you prepared was inaccurate?

11 A. That's correct, right.

12 Q. And, again, you told her there that you got the
13 value wrong when you prepared the return because
14 Mr. Seda coded the checks and they gave you the
15 Springfield building numbers?

16 A. That's probably what -- yes, that's what I did
17 say, yeah, you are right.

18 Q. And you signed that on a written statement to
19 that effect?

20 A. Yes.

21 Q. That you calculated the value by using this
22 piece of paper that they gave you?

23 A. That's correct, right.

24 Q. And you spoke with Colleen Anderson on the
25 phone from time to time?

1 A. Yes, sir.

2 Q. And at one point she asked you if you had a
3 lawyer?

4 A. I don't remember that.

5 Q. You don't remember telling her on February that
6 you were not represented by a lawyer at that time?

7 A. No, I don't -- I never really used a lawyer too
8 often.

9 Q. I'm asking about this matter. Maybe you don't
10 use one too often. I'm asking if, when she came to talk
11 to you about this case, if you told her you didn't have
12 a lawyer?

13 A. Oh, okay. I consulted with Mike Guy who was a
14 lawyer in town who actually was the lawyer that referred
15 Mr. Seda to me. And I did have some questions about my
16 exposure, my liability, in meeting with IRS and
17 questions along that line.

18 Q. So you met with me and Mr. Wax and Mr. Strupp
19 in May of 2009, right?

20 A. Yes, sir.

21 Q. That was eight years after this thing was
22 printed?

23 A. Yes, sir.

24 Q. And at that time you told us -- and, by the
25 way, Colleen Anderson was present at that meeting,

1 right?

2 A. That's correct.

3 Q. You asked that she be present. We said no
4 problem. And so we all spoke together in -- was it your
5 office or was it the IRS office?

6 A. Her office.

7 Q. And you told us again, did you not, that
8 al-Haramain coded all the checks, and that you didn't
9 enter anything yourself into QuickBooks?

10 A. Yes, I did tell you that.

11 Q. In fact, you told us you didn't enter any
12 financial transactions at all into QuickBooks, that
13 al-Haramain did them all, all you did was some bank
14 reconciliation?

15 A. Yeah. What I was going through -- well, I was
16 doing it by memory. That's the process that we have in
17 place for our clients is where -- for them to do all the
18 detail entry. And then after we get the QuickBooks file
19 from them, after they reconcile the bank statement, then
20 we take it from there. And I do the -- whatever
21 adjusting to entries need to be made. So that's the
22 normal process. And I was quoting to you my normal
23 process from memory.

24 Q. So it's fair to say your memory is not very
25 good?

1 A. Yeah, I was wrong in this case.

2 Q. And it's also fair to say that you don't take
3 very good notes; is that accurate?

4 A. Well, yeah, I wish I would have taken better
5 notes, you are right.

6 Q. You told that to the agent at one point that
7 you don't take good notes; do you remember telling them
8 that?

9 A. No. What I meant was I wish I would have kept
10 the notes that I had taken. Sometimes you make a
11 notation, you get the answer you need, you make the
12 adjustment into QuickBooks, and then you don't need the
13 note anymore because the question has been answered. So
14 during this process, I wish I would have kept those
15 notes.

16 Q. So apart from this, you entered many, many
17 transactions yourself, right?

18 A. Yes, sir.

19 Q. Probably hundreds, deposits, all sorts of
20 stuff?

21 A. Yeah. I don't know if it's hundreds but you
22 may be right.

23 Q. All right. So it went from zero to hundreds?

24 A. Correct.

25 Q. And in this audit trail that you looked at, it

1 proved to you that you were incorrect on these
2 documents?

3 A. That's right, yeah.

4 Q. Did -- when you had this meeting with Colleen
5 Anderson, did she tell you it could be a crime to give a
6 false statement to a government agent?

7 A. No, sir.

8 Q. Do you know this?

9 A. I do now.

10 Q. And at that time when you saw Colleen
11 Anderson -- you do now meaning you now just because I
12 told you or from some other way?

13 A. Well, yeah, I guess I've known it, but I
14 didn't -- I certainly did not intentionally give a wrong
15 answer.

16 Q. When you talked with Ms. Anderson on that last
17 time, after she showed you the audit trail which made it
18 clear to you that you had given false information
19 before, you told her a different story which is that you
20 coded all these, right?

21 A. Yeah. I went through the -- there was an
22 e-mail on -- it was May 14th of '01, where Mr. Seda
23 e-mailed to me the QuickBooks file. So those were the
24 entries that they had made. And then Ms. Anderson
25 showed me a -- that was an audit trail -- there was an

1 audit trail printout of that May 14th, '01, data.

2 Q. Right.

3 A. Then there was an e-mail on January 7th of '02
4 where I e-mailed the QuickBooks file back to Mr. Seda so
5 he could restore it on his computer, and I compared the
6 two, and I saw the entries that they had made and the
7 additional ones because of the time coding on the audit
8 trail, I could see that those are the ones that I had
9 made in my office.

10 Q. Okay. And so she brought you some documents
11 which caused you to completely change your memory,
12 completely change -- right -- changed your memory of
13 what happened?

14 A. Yes, sir.

15 Q. Do you have a memory of what happened or are
16 you just reciting what's in the papers?

17 A. Now, about what? About this stuff here?

18 Q. About any of this stuff. You've said for six
19 years that you didn't code this, and now you see on a
20 piece of paper that looks like it says you coded it. Do
21 you have a memory or are you just reading what the paper
22 says?

23 A. No. I remember the questions that I had to ask
24 to get the answers to these, I remember those.

25 Q. You told Colleen Anderson you met with Pete

1 Seda on September 25th.

2 A. Okay. That's incorrect. I met with him on --
3 just a minute, please.

4 Q. Mr. Wilcox, while you are doing that, let me
5 show you 42451.

6 A. Yeah, I met with him on September 24th at 1
7 o'clock.

8 Q. Didn't Ms. Anderson bring you this piece of
9 paper?

10 A. No. This was in my billing file.

11 Q. But she brought you the audit trail. Didn't
12 she bring you some billing records, too?

13 A. I don't know if she did. I don't remember
14 that. I just remember the audit trail.

15 Q. Well, when you met with her, you picked
16 September 25th as the date. Or are you saying you
17 didn't tell her the 25th?

18 A. No, I was incorrect.

19 Q. Why did you tell her the 25th?

20 A. I probably looked at this -- Mr. Seda normally
21 came in mid to late afternoon, and I saw the 3:00 to
22 4:30 and assumed that that's when he came in. But after
23 I saw the audit trail and some of the entries, I realize
24 he came in at 1 o'clock on the 24th.

25 Q. So I'm looking at Ms. Anderson's report, which

1 indicates that she brought you an al-Haramain 2000
2 timesheet. Are you saying that -- is there a different
3 document in your file that could be referred to as an
4 al-Haramain 2000 timesheet that's not this? Do you have
5 a different one?

6 A. No. This was -- I thought this was -- no.
7 This is in my billing file. If she brought that, I
8 don't remember.

9 Q. All right. Okay. So you picked the 25th, but
10 now -- now, by the way, you had days to review the audit
11 trail before she came to see you on that day, right?

12 A. I don't know if I did or not.

13 Q. Clearly you have no independent memory apart
14 from looking at the pieces of paper when you met with
15 Mr. Seda, right? You were going just by what's on the
16 audit trail?

17 A. Yes, that's correct, right.

18 Q. Now, if you look at this piece of paper, it
19 doesn't say "meeting" on it, does it?

20 A. No, it doesn't.

21 Q. Let me show you 42473. This is another
22 timesheet that you have, right?

23 A. That's correct, right.

24 Q. And don't you typically inform a client or
25 inform yourself when you have a meeting with a client?

1 A. What do you mean by "inform"?

2 Q. Well, I mean, isn't it important for you to
3 keep records to bill your clients?

4 A. Yes, yes.

5 Q. And isn't it part of your job to bill your
6 clients, sort of a good client relations to tell them
7 what kind of work you are doing for them?

8 A. Yes, that's in the bills, right.

9 Q. Yes. And don't you, when you meet with a
10 client, both indicate it to yourself, as you do here,
11 and also tell the client about it?

12 A. Yes. It depends on the circumstances. If the
13 meeting is say a special meeting that lasts 10, 15,
14 30 minutes or longer, then in the -- when we send out
15 the bill, yeah, I'll indicate the meeting.

16 If it's a case where he comes in, goes through
17 a few documents to answer my questions, and then leaves,
18 and he was only there 5 or 10 minutes or something, I
19 never detail that out. Because I needed the questions
20 to complete the tax returns. So I just bill all that
21 out with the return for the tax bill, for the tax return
22 bill.

23 Q. Mr. Wilcox, aren't there countless occasions --
24 let me show you some of your other bills. First of all,
25 sometimes you bill more for meetings. Don't you bill

1 \$80 an hour at that time instead of something less for a
2 meeting?

3 A. Yeah, typically, right.

4 Q. So it's in your interests to say there is a
5 meeting?

6 A. Well, yeah, if the meeting was -- like I say,
7 if it was a lengthy meeting, 15 minutes or more, then I
8 bill that out separately.

9 Q. All right. Look at 42443. Here it shows, I
10 think, you bill \$80 for meetings and \$40 for other
11 things?

12 A. Yeah. The billing rate is \$80. And you can
13 see on number 89 -- yeah.

14 Q. All right.

15 A. That entry, there is a conference there. And
16 then we -- a letter was drafted. And then on
17 October 30th, there was a conference there, and we
18 discussed a bunch of other stuff.

19 Q. 42416, that's a bill to al-Haramain which
20 indicates a meeting with the IRS, right?

21 A. Right, yes, sir.

22 Q. That was your meeting with Colleen Anderson?

23 A. Yes, sir.

24 Q. 429 -- I'm sorry, 42419, conference with
25 client. You tell your client that you had a meeting

1 with him, right?

2 A. Yes, I did.

3 Q. 42420, conference with client, right?

4 A. Right, yep.

5 Q. Lists a whole bunch of things you did there,
6 only added up for a total of \$176, so it probably was a
7 pretty short conference with the client, wasn't it,
8 Mr. Wilcox?

9 A. Most likely. This type of work, the payroll
10 work, that gets billed out at lower rates than other
11 work.

12 Q. 42433, conference with clients, right?

13 A. That's correct, right.

14 Q. How about 42463 --

15 MR. CARDANI: Judge, I'm going to object. This
16 is 2002 now. I think we've covered the time period.

17 THE COURT: Sustained.

18 MR. MATASAR: Pardon me, Your Honor?

19 THE COURT: Sustained.

20 BY MR. MATASAR:

21 Q. 42463, this is an August 17, 2000, bill,
22 meetings with Pete?

23 A. Yes, I see it.

24 Q. 42415 -- no, I'm sorry, 42470 is the number,
25 I'm sorry, that's my bad. 42470.

1 A. Yes, I see it.

2 Q. Now, Mr. Wilcox, you were saying that you only
3 put down important meetings?

4 A. I'm sorry, I only put down what?

5 Q. Is that your testimony, you only put important
6 meetings with your client?

7 A. No. If I would meet with a client for
8 typically it's 15 minutes or more, then usually I'll put
9 it in the bill.

10 Q. Okay. Now, didn't you also put telephone calls
11 on your bills when you had a telephone call with a
12 client?

13 A. Yes, once again, if they are lengthy ones.

14 Q. And there -- I won't go through them now, but
15 isn't it a fact that there are countless -- not
16 countless -- 10, 15 indications on bills that you made
17 to Pete Seda where you billed for telephone calls?

18 A. Yes, that sounds familiar.

19 Q. And the bill 42448 that you sent to Pete Seda
20 for the period during September 2001 says nothing about
21 any sort of meeting with Pete Seda?

22 A. That's correct.

23 Q. This wasn't a document that Colleen Anderson
24 brought for you to review, was it?

25 A. No, I don't think so. I don't know.

1 Q. You didn't look at your entire billing file
2 with her?

3 A. Well, yeah, eventually I'm sure she's seen the
4 entire billing file. I've gone through it, too.

5 Q. You went through it looking -- you went through
6 that in the audit trail looking to find a date when you
7 could have meet with Pete Seda to talk about the
8 Springfield building schedule, right?

9 A. Yes. At that meeting, all I want -- I knew the
10 entries that were on the Springfield building account
11 that he had given me. I just wanted to confirm and make
12 sure that we had them all in there.

13 Q. Now, the purpose of this meeting you told
14 Colleen Anderson was to verify that two documents were
15 correct. Didn't you tell her that at this supposed
16 meeting, you showed Pete Seda two documents that he
17 verified?

18 A. Yeah. There were -- usually in a meeting like
19 that, there would be a couple of printouts of schedules
20 that I wanted him to review and tell me what this should
21 be coded to. I needed to get an explanation of certain
22 checks that were written.

23 Q. And the two schedules that you asked him to
24 verify, according to your conversation with
25 Ms. Anderson, were the Springfield building schedule

1 that we talked about, and another one, the reimbursed
2 expenses schedule that we'll talk about in a minute?

3 A. Yes, those -- well, there were actually three
4 at that meeting. There was a third schedule at that
5 meeting.

6 Q. Did you tell Ms. Anderson three or two?

7 A. I probably told her two.

8 Q. What was the third one?

9 A. A third one was an account called loan. Let me
10 see here. It's 42353.

11 Q. Let me find that document, Mr. Wilcox. What is
12 it called?

13 A. 42353 is the number I have.

14 Q. May I approach -- well, if you give me a
15 second, I'll find it. 42353. So what time of day was
16 that meeting?

17 A. 1 o'clock.

18 Q. Okay. And that's what you are saying now after
19 looking at the --

20 A. After looking --

21 Q. -- audit trail.

22 A. -- at the audit trail and the entries that I
23 made in relation to this 42353 and the 42350, the
24 reimbursed expenses.

25 Q. So, Mr. Wilcox, by the time you went to see --

1 well, on September 25th, isn't it fair to say that the
2 Springfield building schedule that we've been showing
3 you with the 461, that was incorrect, right? That has a
4 bad number on it?

5 A. Yeah. At that 1 o'clock meeting with Mr. Seda,
6 I had a question about a \$4,000 check and -- not the
7 check, a bank debit that went out of their bank account.
8 And I needed to know what it was for. And he told me it
9 was remodels on the Springfield building account, which
10 changed that 461 to 465.

11 Q. Is that the first you ever noticed that \$4,000?

12 A. I believe so, yes.

13 Q. Isn't it true, Mr. Wilcox, that that \$4,000 had
14 been coded months before?

15 A. When I looked at the audit trail, I have it as
16 being entered on September 24th at 1:06.

17 Q. Mr. Wilcox, do you recall coding that \$4,000 in
18 September of -- September 20th and just putting the
19 wrong year on it? You don't remember anything about
20 that \$4,000?

21 A. No, I don't remember that.

22 Q. You don't, I'm sorry?

23 A. No, I thought I answered no. I don't remember.

24 Q. Mr. Wilcox, look at the Springfield building
25 schedule again. All right. Okay. Let's go back.

1 Mr. Wilcox, I have a piece of paper. Could you look at
2 42373?

3 A. Okay.

4 Q. Doesn't that show a \$4,000 check?

5 A. Yes, it does.

6 Q. Okay. 9/15/2001?

7 A. Right.

8 Q. So that had already been coded?

9 A. Yeah, it would appear to be.

10 Q. All right. So, again, you have no independent
11 memory, you are just reciting what you see on the audit
12 trail?

13 A. Well, I remember asking Mr. Seda about the
14 4000, and him telling me that it was --

15 Q. Right. You remember now. But the first time
16 you ever remembered it was six years or eight years
17 after it happened and after you --

18 A. No. I believe it was in my November 18th, '03,
19 statement that, you know, there was a \$4,000 difference,
20 and that \$4,000 was for remodeling.

21 Q. If you look at the Springfield building
22 schedule, it appears that the closing was near June 23,
23 2000, right?

24 A. Yes.

25 Q. Isn't that typical? And the \$131,000 check is

1 three months before then?

2 A. That's right.

3 Q. That's not a typical earnest money number, is
4 it?

5 A. No, it is not.

6 Q. It's kind of an unusual set of numbers for a
7 building, is it not here?

8 A. I would say, yes.

9 Q. And don't you have a duty when you see
10 inconsistent numbers like this to obtain additional
11 documentation?

12 A. Well, in this -- yeah, you are probably right.
13 I relied on Mr. Seda's answers.

14 Q. And you looked at the check for 131,300, did
15 you not, at 42402?

16 A. I probably did.

17 Q. That's a pretty unusual looking check, isn't
18 it?

19 A. It certainly is.

20 Q. And didn't that call your attention and cause
21 you -- by the way, this check was written 3/10 of 2000,
22 and you are not talking to Mr. Seda, according to your
23 story now, until September of 2001?

24 MR. CARDANI: Judge, I object.

25 MR. MATASAR: Over a year and a half later.

1 MR. CARDANI: Excuse me. I object to the
2 argumentative nature of the question.

3 THE COURT: Sustained.

4 MR. MATASAR: Sorry, Your Honor.

5 BY MR. MATASAR:

6 Q. So you have this unusual check, you are talking
7 about it a year and a half later, and don't you agree
8 that this check along -- even in addition to the other
9 material would cause you to seek more information?

10 A. Well, I asked him a question about the check.
11 He told me it was for the Springfield building account,
12 and I coded it accordingly.

13 Q. Can you look at the Springfield building
14 schedule again. Do you know what Dar Ul-Islam Dawah is?

15 A. I have no idea.

16 Q. Did you talk to Mr. Seda about that?

17 A. Yes. The only way I got any of these numbers
18 into the Springfield building account was based on
19 answers he gave me where he told me this was for the
20 Springfield building.

21 Q. You have no memory of what it was for or no
22 notes?

23 A. No.

24 Q. You have indicated that given that there were
25 inconsistencies, you probably should have sought more

1 information.

2 Isn't it correct that the CPA standards
3 regarding preparation of a tax return that says that --
4 say that a member may rely on good faith on information
5 furnished by the taxpayer. However, the member should
6 not ignore the implications of information furnished and
7 should make reasonable inquiries if the information
8 furnished appears to be inconsistent?

9 A. Yes, sir, that's right.

10 Q. So you should have gotten the
11 Springfield escrow statement, should you not?

12 A. Well, no -- well, yeah, I asked Mr. Seda for
13 it.

14 Q. You asked him but then he simply said we didn't
15 get a loan and you didn't pursue it any further?

16 A. That's correct.

17 Q. Correct? That's as far as it went?

18 A. That's correct.

19 Q. You didn't press him?

20 A. That's right, I didn't.

21 Q. As far as he knows -- I mean, there is no
22 indication that you pressed him at all. Okay.

23 Now, isn't it true that when you first applied
24 for 501(c)(3) status, there was this back and forth with
25 the IRS?

1 A. Yes, that's right.

2 Q. And didn't the IRS ask you to obtain the escrow
3 statement for the Ashland building and didn't you obtain
4 it?

5 A. Yes.

6 Q. So -- and Pete Seda knew that?

7 A. Uh-huh. Oh, yes, sir.

8 Q. Correct? He knew that as part of an audit, the
9 IRS could request that the escrow statement be obtained?

10 A. Yes, sir.

11 Q. You've indicated that Pete Seda reviews the tax
12 returns, right? In this case you sent it to him a few
13 weeks before it got filed?

14 A. Which tax return?

15 Q. Let me show you 42338.

16 A. Okay. Yes. These are our filing instructions.

17 Q. The date of that is October 2nd?

18 A. Yes, sir.

19 Q. And I think if we look at IRS-1 page 7, it --
20 does that have the signature date? Yeah. Pete Seda
21 signed it on the 16th. You finished it on the 2nd. It
22 looks like then you mailed it to him on the 2nd, and he
23 had two weeks before he signed it?

24 A. That's correct, right.

25 Q. Mr. Wilcox, isn't it true that if there are

1 internal inconsistencies in a return, the IRS is much
2 more likely to look at it carefully or audit it?

3 A. Probably.

4 Q. And isn't it true that on this return there
5 were really only two parts that talk about the value of
6 a building? Okay. Let me show you what they are.
7 First, of course, is line 57a, okay, on page 4 of the
8 exhibit. I think we can --

9 THE COURT: Counsel, how much more do you have?

10 MR. MATASAR: Probably ten minutes at the most.

11 THE COURT: We're going to take a break.

12 (Recess: 10:46 until 11:06 a.m.)

13 THE COURT: Go ahead.

14 BY MR. MATASAR:

15 Q. Mr. Wilcox, where we last were was I said there
16 are two places on the return that list values for
17 buildings, correct? And I'm showing you there IRS-1,
18 page 4, which is line 57a.

19 A. Yes, sir.

20 Q. The key line in the return. And that has a
21 number 685,643.

22 A. That's correct.

23 Q. And the other place on the return that lists
24 fixed assets is the depreciation schedule, which is page
25 17. And you see the total for all assets there up

1 there?

2 A. Yes, sir. It's \$4,000 off.

3 Q. So you made this error, correct?

4 A. Yes, sir, I printed off that --

5 Q. This is an error, right? This should not be
6 that way?

7 A. That's correct. They should reconcile.

8 Q. You made that error. You were rushing to get
9 this done, is that right, the tax return?

10 A. I was getting the return prepared. I don't
11 know if I was rushing, but I was getting it done. And,
12 yes, I printed out this before -- yeah, I made the
13 error, okay.

14 Q. You made the error. And my point is it's a
15 pretty simple error to see. Anybody looking at this
16 return that was really concerned about the value of
17 fixed assets on this tax return, anybody would have been
18 able to see it? You don't have to be a sophisticated
19 accountant, right?

20 A. Correct.

21 Q. Correct. And Pete Seda had two weeks to review
22 this return, right, from October 2nd to October 16th?

23 A. Yes, that's when he came back into the office
24 with the returns, and he signed them there.

25 Q. And Pete Seda never mentioned this error to

1 you, did he?

2 A. No, sir.

3 Q. He just accepted the return that you gave him
4 and he signed it?

5 A. Yes, sir.

6 Q. Even with this obvious error about fixed assets
7 and the value of buildings?

8 A. That's correct.

9 MR. MATASAR: No further questions.

10 THE COURT: Do you want to do your redirect now
11 or later?

12 MR. CARDANI: I'm prepared, Judge.

13 THE COURT: Okay.

14 MR. CARDANI: Thank you.

15 REDIRECT EXAMINATION

16 BY MR. CARDANI:

17 Q. Mr. Wilcox, if we could have Defense 749B
18 brought up, please. All right. Mr. Wilcox?

19 A. Yes.

20 Q. Do you see 749B in front of you?

21 A. Yes, sir.

22 Q. This is, as we talked about yesterday, your
23 initial proposal letter and then it was followed by an
24 engagement letter; is that right?

25 A. Yes, sir.

1 Q. All right. So when you had a discussion with
2 Mr. Sedaghaty about doing the 1023, you envisioned about
3 two hours worth of work, doing it for four hours total,
4 for about 300 bucks?

5 A. That's correct, right.

6 Q. Is that a normal -- based on your experience
7 working with charities and tax exempt, is that a normal
8 amount of work to prepare to do a 1023?

9 A. Yes, that's about right.

10 Q. Okay. Then in the review of the accounting
11 system, number two, if we could bring that up, and
12 just -- if we could leave this up, please. You were
13 envisioning, based on your initial conversations with
14 him, that the billing rate for review of accounting
15 system would be \$50, normally takes one to three hours,
16 maximum fee \$150; is that right?

17 A. Correct, right.

18 Q. All right. Is that standard in working with
19 nonprofits?

20 A. No. Usually the review of the accounting
21 system, that was something that Mr. Seda had requested
22 because, as I said before, in most nonprofits you have
23 always got a volunteer, someone on the board who was
24 willing to do the bookkeeping or accounting, and they'll
25 handle it, and all you'll really be involved in,

1 usually, is the preparation of the 990.

2 Q. And then paragraph 3, in preparing the 990, you
3 call them income tax returns, but you said yesterday
4 that would cover the nonprofit returns as well, normally
5 takes three to four hours to prepare the returns,
6 maximum would be \$300 per year?

7 A. That's correct, right.

8 Q. Why did you write that in your proposal letter,
9 sir?

10 A. That's the normal -- I've been doing 990s for a
11 lot of years and that's typically what they take me.

12 Q. All right. Did they take a little bit longer
13 in this case?

14 A. Well, it did because of -- I had to get
15 involved in the accounting more than I normally do,
16 that's all. And then that would be -- the additional
17 time was really not necessarily the preparation of the
18 return but going through the QuickBooks and meeting with
19 the client and getting answers to various questions.

20 Q. If we could remove that from the screen. Thank
21 you. Now, Mr. Matasar asked about a penalty that was
22 imposed by the IRS for a late filing.

23 A. Yes, sir.

24 Q. You were brought in in January of 2000 to work
25 for Mr. Sedaghaty?

1 A. Yeah, basically, right.

2 Q. '98 return's already late?

3 A. That's correct.

4 Q. '99 return is due when?

5 A. It would have been due May 15th of 2000.

6 Q. Okay. Late?

7 A. No, in the early part of 2000 --

8 Q. All right. You've got four months to work with
9 him to get it done?

10 A. Right, correct.

11 Q. And the 2000 return is due the following year,
12 2001?

13 A. That's correct, right.

14 Q. Mr. Matasar asked you about the Board of
15 Accountancy or who is the state board in Oregon that
16 deals with accountants' licensing?

17 A. Yes, State Board of Accountancy.

18 Q. All right. Tell us about the issue there.

19 A. I was in a building on Crater Lake Avenue in
20 Medford. It was in February of 1994. And in the middle
21 of tax season, the building that I was in was burned
22 down. And so I relocated to another building on
23 Riverside.

24 And so my license -- so from there, I thought I
25 had gotten all the forwarding addresses done, and this

1 and that. And so my license eventually, I think,
2 expired in June of '95.

3 A few months after it expired, I was going
4 through my wallet, and I noticed that my card wasn't
5 current. So I contacted the State Board of Accountancy,
6 and told them I'd like a replacement card. And they
7 told me, no, your license has expired. You've been
8 practicing without a license.

9 So an investigator came out to meet with me,
10 and we talked about the situation, the fire, the middle
11 of tax season, and this and that. And he said -- he
12 said this calls for lenient action, so there will be no
13 reprimand but there will be a letter of concern that you
14 didn't give us your new address after the fire.

15 Q. All right. So in terms of the various degree
16 of sanction for a problem like that, where does that fit
17 in the whole paradigm?

18 A. That's the lowest level.

19 Q. And you brought this to their attention?

20 A. Yes, sir, I did.

21 Q. How long have you been an accountant?

22 A. Since 1974. I've been a CPA since 1979.

23 Q. Practiced in California?

24 A. Yes, sir.

25 Q. Michigan?

1 A. Yes, sir.

2 Q. Wisconsin?

3 A. Right.

4 Q. And Oregon since '92?

5 A. That's right.

6 Q. How many -- have you ever been reprimanded by
7 the state boards in any of those places?

8 A. No, this was the only one.

9 Q. Okay. What about the IRS?

10 A. No sanctions there.

11 Q. All right. In your entire career?

12 A. Yeah, that's it.

13 Q. And so is it fair to say in terms of your
14 career, this is the only blemish, this one about your
15 licensing?

16 A. That's correct.

17 Q. And you brought that to their attention?

18 A. Yes, sir.

19 Q. Now, if we could bring up the building schedule
20 again that we've heard so much about. All right. Let
21 me -- when you initially met with the Internal Revenue
22 Service and discussed this with them, your information
23 was that you believed at the time that al-Haramain did
24 the input on this; is that correct?

25 A. That's correct.

1 Q. All right. Now, with the benefit of time and
2 the audit trails from QuickBooks you know now that that
3 was incorrect?

4 A. That's right.

5 Q. All right. And what -- if I'm hearing you
6 correctly, correct me if I am wrong, you are saying that
7 you created this building schedule but you did it based
8 on information provided to you by someone?

9 A. Yeah. It was provided to me -- the -- the
10 information was provided to me by Mr. Seda. As I went
11 through some checks, I had some questions, and then when
12 I found out about his Springfield building, I just
13 wanted to find out all the costs that were involved.
14 And that's where I wound up getting these four items
15 here. And then there was another \$4,000 item that he
16 said also had to be charged to the Springfield building
17 account.

18 Q. Do you remember those meetings?

19 A. Yes. I remember the meetings.

20 Q. Even though it was nine years ago, you remember
21 the meetings?

22 A. I remember the conversations, okay. I can't
23 give you the specific date of the meetings, but --

24 Q. Okay. Mr. Matasar spent all kinds of time
25 going over your billing records, talking about May and

1 September and so on and so forth. As you sit there on
2 the stand today, do you remember discussing the building
3 schedule and the checks that went into this report with
4 Mr. Seda?

5 A. Yes. At that meeting of September 24th, this
6 was one of the schedules we went over. I wanted him to
7 confirm that -- I wanted him to confirm that, have we
8 missed anything? Do you think this is the total cost of
9 the Springfield building? And he looked at it and he
10 told me it was.

11 Q. Okay. So regardless of who prepared this
12 report, then or you, it was placed in front of
13 Mr. Seda's nose, you went over it with him, and he
14 verified the accuracy of this schedule?

15 A. Yes, sir.

16 Q. Now, when you are hired as someone's
17 accountant, Mr. Matasar asked you a series of questions
18 about you should have done this, you should have done
19 that, requesting records and so on and so forth. Was it
20 your testimony that you did ask Mr. Seda for the
21 Springfield building -- the escrow records from the
22 closing of the Springfield building?

23 A. Yes, I did ask him for that initially.

24 Q. And he didn't provide it to you, did he?

25 A. Well, no, he didn't, but -- I dropped the

1 question after he explained, you know, his religious
2 practice.

3 Q. You asked him for the records, he didn't give
4 them to you?

5 A. That's a correct statement.

6 Q. During all of these meetings with him,
7 telephone, e-mails, back and forth, so on and so on that
8 Mr. Matasar spent so much time talking to you about
9 today, how many of those conversations involved the
10 subject of Chechnya?

11 A. Zero.

12 Q. How many of those involved providing funding to
13 the mujahideen in Chechnya?

14 MR. MATASAR: Objection, beyond the scope.

15 THE COURT: Overruled.

16 THE WITNESS: Could you repeat the question,
17 please?

18 BY MR. CARDANI:

19 Q. Your conversations, series of conversations
20 Mr. Matasar went over with you, billing records, phone
21 calls, letters, so on and so forth, how many of those
22 interactions with your client, the defendant, involved
23 the subject of funding the mujahideen in Chechnya?

24 A. None.

25 Q. How many of your conversations involved

1 providing humanitarian relief to Chechnya?

2 A. None.

3 Q. Now, Mr. Matasar talked to you about -- oh,
4 before I get there, were there times that you were
5 having trouble getting information from Mr. Seda and
6 that resulted in problems preparing the return?

7 A. Well, there would sometimes be delays. I would
8 ask him for information, and it might be a period of
9 time before he could get back to me. Sometimes he was
10 immediate and there were other times that it seemed to
11 take a while.

12 Q. Could I get 42914 brought up. Can we show that
13 to the witness and the jury. And if we could highlight
14 it so we could read it a little bit better. Sir, is
15 this from your file?

16 A. Yes, sir.

17 Q. And incidentally while we're on that, do you
18 have a suitcase in front of you?

19 A. Yeah, I do.

20 Q. Okay. What's in the suitcase?

21 A. These are the al-Haramain files.

22 Q. And is this the file that you accumulated over
23 the period of time that you represented the defendant?

24 A. Yes, sir.

25 Q. Approximately how many thousands of pieces of

1 paper are in those files?

2 A. There might be a ream of paper in each one of
3 them, 500 --

4 Q. Why don't --

5 A. There might be a ream of paper in each one of
6 them. A ream is what, about 500 sheets?

7 Q. Suitcase, I saw you wheeling it in yesterday,
8 it's about this big?

9 A. Yeah. So there's three binders, so maybe there
10 is a thousand pages or more.

11 Q. A lot?

12 A. Yes, sir.

13 Q. Ten thousand pages, perhaps?

14 A. How many?

15 MR. MATASAR: Objection. The witness just said
16 1,000.

17 THE COURT: Yeah, he said a thousand pages or
18 more, to be precise.

19 BY MR. CARDANI:

20 Q. Judge, I hate to be dramatic. Could you pick
21 up the suitcase? Okay. Put it in front of you. All
22 right. Now, all of the information that was in the
23 suitcase represents your work for al-Haramain?

24 A. Yes, sir.

25 Q. It's full of binders?

1 A. Yes, sir, right.

2 Q. Okay. That's one of the binders right off to
3 the right?

4 A. Yeah, there is one here. There is one here.
5 And there is one on the floor.

6 Q. So we're talking --

7 A. Three binders.

8 Q. All right. Now, there is a document in front
9 of you, Defense 42914. What is this, sir? If you need
10 to go to the top, we can get it for you.

11 A. Okay. Yes, I see it.

12 Q. What is it?

13 A. I'm sorry, I didn't hear your question?

14 Q. What is it?

15 A. I had a series of questions that I needed help
16 with from Mr. Seda in completing the '99 return. And
17 these are the questions that I had.

18 Q. And you sent it to him?

19 A. Yes, sir.

20 Q. Because you had some questions requiring
21 follow-up from your client?

22 A. That's correct, right.

23 Q. Now, if we bring up 42592, if we could
24 highlight -- make it a little more readable, please.
25 The whole thing, please. Okay. Is this a letter that

1 you sent May 14, 2002, that's in your file?

2 A. Yes, sir.

3 Q. Is this another letter -- and if we could
4 highlight the verbiage. There we go. Thank you. Are
5 you requesting information?

6 A. Yeah, this is information pertinent to the 2001
7 tax return.

8 Q. And that's May of 2002 that you are asking
9 questions, including Soliman deposits?

10 A. Yes, sir.

11 Q. All right. You sent this to Mr. Seda?

12 A. Yes, it was faxed to him on that date.

13 Q. Okay. If we could next go to Defense 42543.
14 What is this, sir?

15 A. This is a fax from Mr. Seda to me answering the
16 questions of that previous page that you had up there.

17 Q. You sent that in May 14th, and the response is
18 June 26th?

19 A. That's correct.

20 Q. Okay. That's about six weeks?

21 A. Yes, sir.

22 Q. Quite a bit of time responding to your letter
23 and preparing the return; is that right?

24 A. In this case, yes, you're right.

25 Q. All right. If we could have BOA-6 brought up,

1 please. If we could highlight this. You've seen quite
2 a bit of this check, sir?

3 A. Yes, I have.

4 Q. Mr. Matasar showed you this check. And it's
5 dated January 25, 1998. Do you see that?

6 A. Yes.

7 Q. And then Mr. Matasar asked you to look for the
8 records for 1998 to see where you input that. And what
9 was your testimony?

10 A. I thought I had put this in the fixed assets,
11 but after he showed me that schedule, it was obvious
12 that I did not.

13 Q. For 1998?

14 A. That's correct, right.

15 Q. In your experience do people occasionally,
16 especially at the beginning of the year, write checks as
17 if it was the previous year? Get the dates wrong?

18 A. Yes, yeah, they may, right.

19 Q. Have you ever done that?

20 A. Yeah, I have.

21 Q. I have. All right. January 25, 1998, if you
22 were to assume that that check was incorrectly dated by
23 Mr. Seda, and it was actually January of 1999, that
24 check should be recorded in the fixed assets for 1999;
25 is that right?

1 A. Yes, sir, that's right.

2 Q. Let's take a look, do you recognize this as
3 the --

4 A. Yes, that's the audit trail.

5 Q. All right. This is a reliable document for
6 you?

7 A. Yes, sir.

8 Q. All right. Let's go to right here. All right.
9 Is this your fixed asset entries for the year 1999?

10 A. Yes, it is, but it's been coded to office
11 supplies, not fixed assets?

12 Q. Which is consistent with what you said before
13 during direct and then changed your mind when
14 Mr. Matasar said look through the 1998 schedule, this is
15 properly coded in 1999 records?

16 MR. MATASAR: Objection, Your Honor. It's a
17 compound question --

18 THE COURT: Sustained.

19 MR. MATASAR: -- and it misstates the evidence.

20 THE COURT: Sustained.

21 Would you please take the suitcase down because
22 the court reporter is having a hard time seeing you.

23 Thank you.

24 BY MR. CARDANI:

25 Q. Okay. Based on this record for 1999, if that

1 check was really for 1999, not 1998, you properly
2 categorized it consistent with what the check said it
3 was as a fixed asset?

4 A. No, I've categorized it as office supplies.

5 Q. I'm sorry, buying a computer, buying equipment?

6 A. That's correct.

7 Q. Which is what the check said?

8 A. Well, that's the answer that Mr. Seda gave me
9 that he -- that they bought a computer from this man.

10 Q. You relied on his information?

11 A. Yes, sir.

12 Q. And put it here?

13 A. Yes, sir.

14 Q. Now, on that subject, when you are hired by a
15 client to represent them, especially a nonprofit, are
16 you paid to challenge them on the accuracy of what they
17 tell you?

18 A. No. You are just -- you do come in with the
19 spirit of healthy skepticism on things that look
20 unusual, but mainly what you are going to do is go
21 through and -- well, like in the case with them, just
22 make sure all the checks and deposits get in. And that
23 they will do the majority of the coding. You may do
24 some adjusting journal entries at the end of the year to
25 reclassify certain accounts, and so forth.

1 Q. But my question is when you -- it's not an
2 adversarial relationship?

3 A. No, sir.

4 Q. So you trust your client unless given reason
5 otherwise?

6 A. Yes, sir.

7 Q. Fair statement?

8 A. That's right.

9 Q. And you trusted Mr. Sedaghaty?

10 A. Yes, I did.

11 Q. You trusted the accuracy of the statements he
12 made to you in response to the questions when you had
13 some questions about the financial records of
14 al-Haramain?

15 A. Yes, I did.

16 Q. Now, when you saw this *Reader's Digest*
17 article --

18 A. Yes, sir.

19 Q. -- it was about this very check?

20 A. Yes, it was.

21 Q. And did anything about that article cause you
22 to form a different -- have some concerns about the
23 veracity of the statements made to you several years
24 earlier by Mr. Sedaghaty?

25 A. Well, yeah, when I read that --

1 MR. MATASAR: Objection, Your Honor, beyond the
2 scope.

3 THE COURT: Overruled.

4 MR. MATASAR: It's calling for an opinion.

5 THE COURT: You have my ruling. Go ahead.

6 THE WITNESS: I'm sorry. Yeah, well, when I
7 read the article, and based on the comments made in the
8 article, it made me question whether he told me the
9 truth -- or, obviously, that he probably had not told me
10 the truth about that check.

11 BY MR. CARDANI:

12 Q. Was that the first time you questioned his
13 veracity?

14 A. Probably, yes.

15 Q. Several years later?

16 A. Yes, right.

17 MR. CARDANI: Through the benefit of the clerk,
18 could I offer this as the next TW exhibit. We'll be up
19 to 6.

20 MR. MATASAR: No objection.

21 MR. CARDANI: Thank you. I've got to get it
22 stickered and take care of kind of the housekeeping but
23 I do offer it at this time, Judge, as TW --

24 THE CLERK: 6.

25 MR. CARDANI: -- 6.

1 THE COURT: CW-6 is received.

2 MR. CARDANI: Judge, that's all I have. Thank
3 you.

4 THE COURT: Thank you. Recross.

5 I said CW. It's TW. Thank you.

6 RECROSS-EXAMINATION

7 BY MR. MATASAR:

8 Q. Mr. Wilcox, I want to show you number 43886,
9 which should not go to the jury yet. Could you read
10 that, Mr. Wilcox, especially the second half of the long
11 paragraph. This is a letter in your file?

12 A. Yes, sir, I see it.

13 Q. And it refers to al-Haramain?

14 A. Right, it does.

15 Q. Wanting to give money to Chechnya?

16 A. Yes, I see it.

17 Q. And they don't want to give it to the United
18 Nations or some NGO, but they want to give it to
19 Chechnya?

20 A. Right.

21 Q. Just one more number, Your Honor. By the way,
22 Mr. Wilcox, the date of that letter was February of
23 2001?

24 A. Yes, it was.

25 Q. Mr. Wilcox, look at 42651, not to the jury

1 also. That's a document in your file?

2 A. Yes, I see it, okay.

3 Q. March 9, 2001?

4 A. Right.

5 Q. And doesn't that tell you that al-Haramain is
6 getting money for relief work in Afghanistan or
7 Chechnya?

8 A. Yes, it does.

9 Q. Mr. Wilcox, let me show you the audit trail,
10 the very last exhibit that the government introduced.
11 Now, you say that you put this -- you testified that
12 Mr. Seda told you to put this in to fixed assets,
13 this --

14 A. Well, he said it was a computer.

15 Q. So you coded it as a fixed asset based on your
16 conversation?

17 A. It looks -- yeah. It looks like I coded it
18 into office supplies.

19 Q. Okay. Mr. Wilcox, did you have a file on
20 May 18, 2001?

21 A. A file of what?

22 Q. The QuickBooks file.

23 A. May 8, 2001? According to what I was told by
24 Agent Anderson, there was a QuickBooks file from
25 Mr. Seda e-mailed to me on May 14th of 2001.

1 Q. So if the coding was done on May 8th, you
2 didn't code it, did you?

3 A. No, I wouldn't have.

4 Q. Right.

5 A. They would have coded it.

6 Q. They would have coded it?

7 A. That's right.

8 Q. So there was no conversation with Mr. Seda that
9 caused you to code it and you didn't code it?

10 A. Yeah, I remember the conversation with him.

11 Q. Mr. Cardani showed you at the beginning of his
12 redirect, and I'm not going to show them again -- why
13 don't we do it. 42914, 42592, 42543, these are all
14 documents that indicate when you have important
15 questions to Mr. Seda, you write them down and keep them
16 in your file, do they not?

17 A. That's right.

18 MR. MATASAR: No further questions.

19 MR. CARDANI: Briefly. May I have the witness
20 shown this exhibit. It is 42651. No. I'm sorry, the
21 witness, not the judge.

22 MR. MATASAR: He gets to see it anyway.

23 THE COURT: She's actually trained to show it
24 to me first, no matter what a lawyer says.

25 MR. MATASAR: No objection.

1 REDIRECT EXAMINATION

2 BY MR. CARDANI:

3 Q. All right. Mr. Wooten (sic), do you see that?

4 A. Yes, I do.

5 Q. All right. I want you to take a look at the
6 very top of that.

7 A. Right.

8 Q. That came from your files?

9 A. Yeah, apparently it's in my file.

10 Q. Yeah. Look at the bottom right hand, I think
11 we've agreed that all of these documents with the FPD
12 reference came from your file.

13 A. Right. Okay.

14 Q. Do you accept that for the purposes of this
15 question?

16 A. Yes.

17 Q. Mr. Matasar talked about a letter mentioning
18 Chechnya contributions and so on and so forth. And I
19 think you stated that that letter is -- was part of your
20 file and dated March 9, 2001?

21 A. Yes.

22 Q. Okay. Looking at that document, though, does
23 that refresh your recollection as to when you actually
24 received this document?

25 A. No. I don't know when I received this.

1 Q. All right. But what's the fax date on the top
2 of it?

3 A. November 18th, '01.

4 Q. Okay. Is that maybe an indicator as to when it
5 was --

6 A. Yeah, that's probably when he sent it over --
7 Mr. Seda sent it over.

8 Q. All right. If it was the date that -- that was
9 the day that he sent this letter, can we agree that
10 that's about a month after the form 2000 990 that's at
11 issue in this case was filed with the IRS?

12 A. Let's see, I'm sorry would you repeat that
13 question. I'm --

14 Q. Well, the return -- the 2000 return, 990 is
15 logged in with the IRS in October of 2001?

16 A. That's correct, right.

17 Q. Okay. That's before the date of this faxed
18 e-mail to you?

19 A. That's correct, right.

20 MR. CARDANI: That's all.

21 THE COURT: Thank you. You may step down. The
22 witness is excused. Call your next witness, please.

23 MR. CARDANI: Greg Wooten.

24 THE CLERK: Please raise your right hand.

25 (The witness was sworn.)

1 THE CLERK: Please have a seat. This is the
2 microphone that you'll be speaking into.

3 Please state your name and spell your name for
4 the record.

5 THE WITNESS: Gregory Wooten, G-R-E-G-O-R-Y,
6 W-O-O-T-E-N.

7 DIRECT EXAMINATION

8 BY MR. CARDANI:

9 Q. Good morning, Mr. Wooten.

10 A. Good morning.

11 Q. In what city do you live?

12 A. I live in Renton, Washington.

13 Q. And what do you do for a living?

14 A. I am a supervisory Internal Revenue agent for
15 the Internal Revenue Service specializing in exempt
16 organizations.

17 Q. Let's go -- before we get into what you do
18 there, let's go into a little bit about your background.

19 A. Sure.

20 Q. Do you have a college degree?

21 A. Yes, I do.

22 Q. In what?

23 A. Accounting.

24 Q. What year?

25 A. I graduated from Central Washington University

1 in 1988.

2 Q. What did you do after you graduated with your
3 accounting degree?

4 A. After I graduated, I immediately went to work
5 for the Internal Revenue Service in the Exempt
6 Organizations Division.

7 Q. So was that still in '98 -- I mean, '88?

8 A. 1988, yes.

9 Q. And how long have you been with that unit?

10 A. I have been with EPEO is the Employee Plans
11 Exempt Organization Division of the IRS, which
12 subsequently changed in a restructure to an organization
13 called the Tax Exempt Governmental Entities Division of
14 the IRS. My entire working career after college from
15 1988 until current.

16 Q. Okay. So it's known today by an acronym as
17 TEGE?

18 A. TEGE, Tax Exempt and Governmental Entities,
19 that's right.

20 Q. Regardless of what it was called before or now,
21 what does TEGE do for IRS?

22 A. TEGE is one of the operating divisions, it's
23 actually the smallest operating division of the IRS.
24 And what TEGE does is do determinations. We determine
25 tax exempt status and examinations of organizations that

1 have some sort of tax preferred or tax exempt status.

2 There are several divisions within TEGE. We
3 deal with retirement plans. We deal with charities,
4 your typical 501(c)(3) charities, you might be familiar
5 with. We also deal with tribal entities. And we deal
6 with governmental agencies.

7 I work specifically with the exempt
8 organizations area of the IRS, which deals with tax
9 exempt organizations.

10 Q. Okay. So you've been doing this for roughly
11 22 years?

12 A. I've been working within the TEGE or its
13 predecessor for about 22 years, that's correct.

14 Q. Which office are you currently in?

15 A. I am currently in the Seattle, Washington,
16 office. And I mentioned that TEGE is a -- or exempt
17 organizations in my case is a little bit small, so the
18 Seattle office actually controls audits over the
19 Washington -- the states of Washington, Oregon, Idaho,
20 Alaska, and Hawaii. We also do a little bit of
21 traveling around the rest of the U.S. occasionally as
22 well.

23 Q. Okay. Have you received much training in the
24 art of auditing tax exempt organizations?

25 A. Certainly. When I first came on board with

1 exempt organizations, we're talking about I received an
2 initial phase of training that dealt with the 1023, the
3 application process an organization has to go through
4 in order to receive that tax exempt status.

5 As a follow-up to that, I received examinations
6 training for the audit of the 990. The 990 is a return
7 filed by organizations that have received that tax
8 exempt status. Subsequently, we receive annual
9 refresher training, as well as as-needed training in
10 changes in tax law.

11 Q. Have you also provided training to other IRS
12 employees on the same subject?

13 A. Yes. I've provided training to other IRS
14 employees as well as public seminars on how to become an
15 exempt organization, how to maintain your exempt
16 organization status, and what is happening within exempt
17 organizations at the time.

18 Q. Okay. Going back to the time period 1994
19 through about 2007, if I'm reading my notes correctly,
20 were you an auditor in TEGE?

21 A. That is correct. Prior to 1994, I worked in
22 the Employee Plans Section, the Pension Plan Audit
23 Section of the IRS. Subsequent to that, in 1994, I
24 became an auditor, a revenue agent, that audited almost
25 exclusively 990 organizations within the exempt

1 organization function.

2 Q. I've just been passed a note that you are
3 speaking a little bit quick for everybody. Can you try
4 to slow down just a little bit.

5 A. I'm sorry.

6 Q. I'm usually getting those notes sent to me, so
7 I know how that goes.

8 Okay. Is this your first time ever testifying
9 in court?

10 A. Yes, it is.

11 Q. There is some water to your left if you ever
12 need to --

13 A. Thank you.

14 Q. If you need some water, it's right there.

15 Okay. So I've asked you, before coming into
16 court today, to come up with a ballpark for the jury to
17 tell us how many form 990s you personally audited in
18 your career with the IRS.

19 A. And it certainly has been in the hundreds in my
20 career with the IRS. And we sort of ballpark based upon
21 an average number of returns I audited per year while I
22 was doing this, and we came up with a little in excess
23 of 300.

24 Q. And then since have you changed jobs and --
25 well, you got promoted in 2007?

1 A. That's correct. In 2007, I became a
2 supervisory Internal Revenue agent. So what I now do is
3 I actually manage the group that does the audits of all
4 of the 990s filed in the area that I mentioned earlier.

5 Q. And how many people are in the section?

6 A. I have 11 revenue agents working for me as well
7 as my secretary.

8 Q. The same question there, since 2007 you've been
9 kind of the boss over the same function?

10 A. Yes, that's true.

11 Q. And how many audits have been conducted of
12 exempt organizations under your leadership?

13 A. Current and ongoing exams, it's actually hard
14 to come up with a number there have been so many, but
15 certainly in the range of 3 to 400.

16 Q. All right. What is a 501(c)(3) charity?

17 A. 501(c)(3) is a section of the Internal Revenue
18 Code. It relates to the granting of tax exempt status,
19 our most favorable tax exempt status to an organization
20 as long as they meet certain requirements. They have to
21 meet certain organizational and operational requirements
22 in order to be granted that status.

23 And effectively what the statute says is that
24 these organizations in order to be granted tax exempt
25 status must be operating -- organized and operated

1 exclusively for exempt purposes, and can -- the
2 organization's assets cannot inure to the benefit of an
3 individual or organization in a substantial amount.

4 Q. That's a mouthful but --

5 A. Yes.

6 Q. -- is it fair to say basically that this is a
7 pretty coveted status if you are running a business and
8 sometimes you have to pay a lot of incomes taxes,
9 corporate taxes?

10 A. Yes.

11 Q. But if you achieve this goal of becoming a
12 501(c)(3), then you don't have to pay anymore income
13 taxes?

14 A. In general that's true. Without boring
15 everyone about something called unrelated business
16 income, a 501(c)(3) organization is an organization that
17 is effectively granted a tax free status by the
18 government because of them operating on exempt -- for
19 exempt purposes. We only grant that status to certain
20 organizations, those being organizations that are
21 operated for charitable purposes, for educational
22 purposes, for promotion of national and international
23 sporting events, for the prevention of cruelty to
24 children, for the prevention of cruelty to animals. So
25 we only grant that most favored status to organizations

1 that exclusively -- is what the statute says -- operate
2 in a manner that promotes those purposes.

3 Q. And the IRS has got lots of forms, but is it a
4 Form 1023 that one files to seek this status with the
5 IRS?

6 A. A Form 1023 is the application that an
7 organization files to receive tax exempt status, that is
8 correct. And that, as I mentioned before, when I
9 received training with the IRS, that was one of the
10 forms that I received training on how to process those
11 applications.

12 Q. You are familiar with an application by the
13 al-Haramain Islamic Foundation in Oregon to become a tax
14 exempt organization?

15 A. Yes, I did review that application.

16 Q. And IRS-4 is an exhibit that's been received.
17 If we could go to the first substantive page. Do you
18 recognize this, sir?

19 A. Yes, I do. What we're looking at is what we
20 generally call a determination letter, a favor
21 determination letter. It is a letter that grants status
22 under Section 501(c)(3) as a charity to the al-Haramain
23 Foundation. It appears to have been processed by an
24 employee that works out of the Portland office that used
25 to work for me.

1 Q. Okay. There is just a couple of points that
2 I'd like to cover with you on this. If we could go to
3 page 2. Before we get into the verbiage how, is
4 there -- is there a difference between -- when do you
5 have to file a 990 as a tax exempt organization?

6 A. As it states in the document here, generally
7 organizations are required to file a 990 or some
8 derivative thereof if the organization is receiving more
9 than \$25,000 in gross receipts annually.

10 Q. Okay. And the 1040s that individuals file for
11 income taxes, families and individuals --

12 A. Yes.

13 Q. -- are those available to the public?

14 A. No, they are not.

15 Q. How about a Form 990?

16 A. With certain exceptions for donor information
17 and information that the service is deemed sensitive,
18 all of the 990 information is available to the public.
19 You can get onto the Web and pull up the 990 return for
20 any organization within the United States.

21 Q. Why is that?

22 A. Because these forms are there to -- one of
23 their purposes, as well as informing the government of
24 what the organization is doing, they are there to inform
25 the public of what an organization is doing, what this

1 organization's activities are.

2 Donors -- everyone out there has the
3 opportunity to make charitable contributions to
4 organizations. Now, if you are trying to decide who you
5 would want to make a donation to, one of the things you
6 can do is you can take a look at that organization's 990
7 and see if the activities that are reported on that 990
8 are consistent with an organization you would like to
9 give money to.

10 The organizations therefore have it in their
11 best interest to report as accurately as possible what
12 they are doing on the Form 990 returns so that the
13 donors will take a look at it and say, yes, this is an
14 organization I would like to donate to based upon the
15 activities that are disclosed here.

16 Q. So is it a fair statement to say that these
17 Forms 990 are -- kind of have a dual function to --

18 A. Yes.

19 Q. -- help the donors -- the donating public to
20 decide where to send their charitable contributions?

21 A. Yes, that's correct. That is one of the
22 functions of this form as well as it being a primary
23 form that I, as a revenue agent or now a supervisory
24 revenue agent, would review when an examination was
25 being done on one of these organizations.

1 Q. If we could go to page 3 of that letter. And
2 this information is repeated in this letter that's
3 captured there, talking about the fact that -- this is
4 the letter that went out al-Haramain, and does this
5 capture this requirement to make these 990s available
6 for public inspection?

7 A. Yes, it does.

8 Q. And are these available --

9 THE COURT: Excuse me, find a place for us to
10 break, please.

11 MR. CARDANI: Right here, Judge, would be
12 great.

13 THE COURT: Until 1 o'clock. Thank you.

14 (Lunch recess: 11:56 until 1:07 p.m.)

15 THE COURT: Go ahead.

16 MR. CARDANI: Thank you, Your Honor.

17 BY MR. CARDANI:

18 Q. Mr. Wooten, before we broke for lunch, we were
19 talking about an Exhibit IRS-4, which I think has been
20 referred to as a determination letter?

21 A. That's correct.

22 Q. Issued to al-Haramain allowing them to
23 become -- operate as a public charity?

24 A. That's correct.

25 Q. As a tax exempt organization?

1 A. A 501(c)(3) organization, that's correct.

2 Q. Okay. If you could lean forward a little bit,
3 there's a microphone down --

4 A. Yeah.

5 Q. -- in front of you built into the board, but --
6 and speak slowly. Okay. I think that you established
7 that the organization has to file a 990 if receipts are
8 over a certain amount?

9 A. That's correct.

10 Q. How much is that?

11 A. Usually it's \$25,000 for the period that is at
12 issue here, the 2000 year.

13 Q. Okay. And those forms are made available to
14 the public as well as to the IRS?

15 A. That's correct.

16 Q. The last part of the letter that I want to talk
17 to you about starts on the bottom of page 3. And the
18 last paragraph here, it's a little cut off, but could
19 you read it out loud, and we'll get it over to page 4,
20 and then -- is this a very common letter to you? Do you
21 know the verbiage very well?

22 A. Yes.

23 Q. Okay. Could you read that slowly to the jury
24 and add the words that are cut off at the end?

25 A. "This determination letter is based on evidence

1 that your funds are dedicated to the purposes listed in
2 Section 501(c)(3) of the Code. To assure your continued
3 exemption, you should keep records to show that the
4 funds are spent only for those purposes. If you
5 distribute funds to other organizations, your records
6 should show whether they are exempt under Section
7 501(c)(3).

8 Q. Okay. Stop there for a minute and we'll get
9 to that. All right. Can you explain to the jury what
10 that means, that you have to keep records and -- when
11 you make a distribution to another 501(c)(3), what that
12 means?

13 A. Certainly. All the tax exempt organizations
14 are required as a condition of their continued exempt
15 status to maintain records showing how they expended
16 their funds.

17 What this is saying is that in order to
18 continue to be exempt under Section 501(c)(3), your
19 organization should keep those records. If the
20 organization distributes funds to other 501(c)(3)
21 organizations, then the organization must maintain
22 records to indicate that they did distribute those funds
23 to another 501(c)(3) organization.

24 What this section has to do with is what we
25 like to call -- it's an auditor's expenditure

1 responsibility. It's kind of a multistep process.

2 There is a different record-keeping requirement
3 for an organization that distribute funds to another
4 501(c)(3) as compared to a non-501(c)(3) organization,
5 such as a non-charitable corporation, or an individual
6 or other non-charitable beneficiary.

7 Q. Okay. Let me stop you there. Because I think
8 that's explained in the next one.

9 A. Okay.

10 Q. So the letter goes on to the next page, in
11 cases where the -- at very top here page 4 -- recipient
12 organization is not exempt --

13 A. Yes.

14 Q. Has the jury seen this? Pardon me. "In cases
15 where the recipient organization is not exempt under
16 Section 501(c)(3), you must have evidence that the funds
17 will remain dedicated to the required purposes, and that
18 the recipient will use the funds for those purposes."

19 What's going on there, Mr. Wooten?

20 A. This is describing a situation where the
21 organization is distributing funds to something other
22 than another charitable organization. What it is saying
23 in shorthand there is that the organization must
24 maintain records and be able to provide those records to
25 the IRS upon examination showing how they spent funds

1 for exempt purposes. And if they provided those funds
2 to another individual say, just as an example, if I gave
3 \$100,000 to you to expend for charitable purposes, I
4 could not just hand those funds to you saying expend
5 these funds for charitable purposes. It is possible for
6 you to do that as my agent. However, you would have to
7 provide me records that I could then provide to the IRS
8 showing that those funds ultimately did go to a
9 charitable beneficiary.

10 Q. Okay. And there is a difference, not to be too
11 fine a point, but if one tax exempt gives to another,
12 the record reporting requirements aren't as stringent as
13 opposed to if a tax exempt gives money to a nontax
14 exempt organization; is that a fair statement?

15 A. That is correct.

16 Q. Okay. And the record-keeping requirements are
17 much more stringent because as the IRS want to --

18 MR. MATASAR: Objection to leading questions,
19 Your Honor.

20 THE COURT: Sustained.

21 BY MR. CARDANI:

22 Q. Well, again, all right. What explains this
23 difference?

24 A. The difference is that if you distribute the
25 funds to a second charitable organization, second

1 501(c)(3) charitable organization, that organization
2 essentially takes over the charitable record-keeping
3 responsibilities. Therefore, the only thing that
4 your -- the first charitable organization would have to
5 do is show cancelled checks, something along those
6 lines, that said funds went from their bank account to
7 the account of the second charitable organization.

8 In that case, the first charitable organization
9 is essentially relieved of its burden. The second
10 charitable organization takes on that burden.

11 In a situation where there is no second
12 charitable organization, the last charitable
13 organization that is using those funds for some purpose
14 that they purport to be charitable, has to be able to
15 document who the end user of those funds are and how
16 they were used for charitable purposes.

17 Q. Because if you're dealing with two tax exempts,
18 they are both within your umbrella so you could ask them
19 that information?

20 A. That is correct. They are both 501(c)(3)
21 charitable organizations, they are both subject to
22 examinations as charitable organizations.

23 Q. But if you have a 501(c)(3) distributing money
24 to a nontax exempt organization, then the record-keeping
25 requirements are much more stringent on your tax exempt

1 organization?

2 A. The record-keeping requirements continue on the
3 first tax exempt organization until the final
4 disposition of the funds, that's correct.

5 Q. Now, does this -- these record-keeping
6 requirements, I think you call them expenditure
7 responsibilities, do these also include records with
8 respect to funds going overseas?

9 A. Yes.

10 Q. How so?

11 A. Expenditure responsibility is still required,
12 regardless of whether funds are going to an organization
13 within the U.S. or outside of the U.S., the organization
14 that is distributing those funds still must document
15 that those funds are going to a charitable purpose.

16 When funds leave the U.S., as an auditor, I
17 would be more concerned with those funds simply because
18 the funds are leaving the U.S. and its regulatory
19 controls, so funds become a little bit more loose as
20 they get outside of the U.S. And we still require an
21 organization to be able to provide us documentation as
22 to where those funds went, for example, which country
23 did they go to, but not just that, but who did you
24 distribute those funds to in a given country, how did
25 the recipient in that country distribute or use those

1 funds themselves, and was that ultimately a charitable
2 purpose.

3 Q. What about such expenditure responsibility for
4 overseas transactions that involve cash or things like
5 travelers checks?

6 A. Cash and travelers checks generally are more
7 difficult to trace as they leave the country.
8 Therefore, we, the IRS, are more concerned about funds
9 traveling in those fungible forms.

10 If you are making a distribution overseas, the
11 most common thing is always to make a distribution via
12 wire transfer. It costs a couple of dollars to make the
13 transfer. It's an immediate transaction that goes from
14 one bank to another bank in the receiving country.

15 If the funds are going in some more liquid
16 form, say cash or travelers checks, the organization --
17 first of all, that would be unusual. Second of all, the
18 organization would be required to provide substantial
19 documentation as to how those funds were used at the end
20 user.

21 Q. If you know about it?

22 A. Yes, if I knew about it.

23 Q. Okay. Can a tax exempt organization, a
24 501(c)(3), this is a phrase that I think you're familiar
25 provide with prohibited activities?

1 A. Yes.

2 Q. What's a prohibited activity with respect to a
3 501(c)(3)?

4 A. A prohibited activity or we like to call it
5 inure. In Section 501(c)(3) it describes inurement.
6 And that's basically funds going to an insider of the
7 organization or to an individual as a private benefit.
8 Also, you know, a prohibit -- it would just generally be
9 something outside the context of Section 501(c)(3),
10 funds used for any non-charitable purpose.

11 Q. Okay. So there are certain things that are
12 within 501(c)(3) as allowing you, the IRS, to say you
13 don't have to pay taxes?

14 A. That's correct.

15 Q. Okay. But is the flip side that you have to
16 spend your money in a manner consistent with the
17 purposes that you were granted that tax exempt status?

18 A. That's correct. Section 501(c)(3) is the
19 section that defines what an organization that does not
20 have to pay federal income tax for charitable -- as a
21 charity is.

22 Q. Now, in -- as part of TEGE's mission with IRS
23 to monitor 501(c)(3) organizations to make sure that
24 they are acting in a manner consistent with their
25 chartered purpose?

1 A. That's correct. The exempt organization
2 function within the TEGE division, which is the function
3 that I work for, that is our primary responsibility. We
4 monitor organizations that are exempt under 501(c)(3) as
5 well as some other sections. And the 990s, the primary
6 return they file, we have the primary audit
7 responsibility of those returns.

8 Q. That was my next inquiry is this form, 990. Is
9 that an important document in TEGE's mission to
10 determine if tax exempts are acting consistent with what
11 they are chartered purposes are?

12 A. Yes. Within the exempt organization functions
13 that is the primary document that we look at when we're
14 doing an initial review of an exempt organization as to
15 their activities.

16 Q. What kind of information is generally reported
17 in the 990?

18 A. The 990 is kind of a broad brush return. It's
19 not your typical say 1120 return that just lists the
20 incomes and assets of the organization, but that is one
21 of its purposes.

22 The income of the asset -- I'm -- excuse me.
23 The expenditures of the organization are listed on the
24 990. The assets and liabilities of the organization are
25 listed on the 990. There is a description of the

1 charitable purpose of the organization on the 990, as
2 well as its charitable activities. There is a schedule
3 on there that breaks down how the organization spent its
4 funds. There are also attached schedules that relate to
5 something we call private foundation status that ask a
6 series of questions about where the organization
7 received its funds. There is a schedule that is
8 attached on how the organization distributed their
9 funds. There are several questions -- there are several
10 questions that have been added over the years to the 990
11 that ask specific questions, such as does the
12 organization get into political, legislative activities,
13 some of the other things a 501(c)(3) organization say
14 cannot do or is restricted from doing.

15 Q. Okay. Now, as part of TEG -- are these 990s
16 filed under the penalty of perjury?

17 A. Yes. There is a signature line on the 990s
18 under penalty of perjury, that's correct.

19 Q. Does -- you've mentioned the fact that you've
20 audited hundreds of these type of returns or supervised
21 hundreds more.

22 A. Yes.

23 Q. Can you explain the process of how 990s or tax
24 exempt organizations may be selected for audit by the
25 IRS?

1 A. There are several reasons an organization may
2 be selected for audit by the IRS, a 990 that is, from
3 mundane to the very specific. When I say mundane,
4 sometimes we just look at organizations on a random
5 basis to do a statistical sampling within an industry.
6 We have industries within exempt organizations.

7 Additionally, if there is a known problem, we
8 will sometimes look at that known problem within an
9 industry. So if we know of a problem, for example, with
10 organizations that do credit counseling, we may have a
11 project on credit counseling organizations.

12 Also, it's quite common for us to receive
13 referrals from the general public where someone sends in
14 information saying an organization is doing this or
15 that. And that we feel that this is a contradiction to
16 their exempt status and that you should examine that
17 organization.

18 Q. All right. It's that one that I want to focus
19 on for a minute, information coming in from outside
20 sources like the public.

21 A. Yes.

22 Q. If TEGE -- is there a better way to refer to it
23 or do I have to say TEGE?

24 A. If you just want to say -- if you're speaking
25 of the division that I work for that audits 990s, just

1 call it EO, exempt organization.

2 Q. EO. All right. If EO is given information
3 that one of the 501(c)(3)s is providing false
4 information on its 990, is that important to your shop?

5 A. Yes, it is. If an organization is providing
6 false information on its 990, then that would likely
7 lead to a referral for an examination.

8 Q. An audit?

9 A. Yes.

10 Q. So once a return or an organization is selected
11 for audit, can you just describe the general process of
12 what an audit involves?

13 A. All right. Generally if an auditor, revenue
14 agent receives a return for an audit, the first thing
15 that they would do is take a look at the 990 filed by
16 the organization, in conjunction with the information
17 that generated the examination. So we're talking, I
18 believe you said, in the context of a referral here. So
19 if there were a referral that came in for an
20 examination, I, or the examiner, would review the
21 referral, and then review the 990 in conjunction with
22 the referral.

23 We'd look at the 990 to see if the items that
24 are reported in the referral document are reflected, or
25 in some cases not reflected on the 990 return.

1 Additionally, we would do an analysis of that
2 990 return for what we like to call LUQs, large,
3 unusual, or questionable items. These are just items
4 that are out of the ordinary on the return, a large
5 expenditure, an expenditure going someplace that you
6 really wouldn't normally expect to see, or someplace
7 that may cause you concern.

8 We were discussing expenditures, going out of
9 the country earlier in one of the previous questions.
10 An expenditure going out of the country may be
11 classified as a large, unusual, or questionable item.
12 It usually would be depending on the type of
13 organization we have.

14 Q. So you do this background information or gather
15 information before reaching out to the exempt
16 organization?

17 A. That is correct. We call this our preaudit
18 analysis simply -- it's simply that, a pre-analysis of
19 all the information that we can pull up. We look at the
20 referral. We look at the 990. We may also get on to an
21 organization's Web site, look at other public sources.
22 Some referrals, even though you made reference earlier
23 to them coming in from the public, the public in this
24 case also could include a local law enforcement agency.
25 And we could then potentially make contact with that law

1 enforcement agency, because sometimes they have more
2 information to provide us after the referral came in.

3 Q. After this preaudit stuff is done, do you reach
4 out to the --

5 A. Yes.

6 Q. -- tax exempt organization?

7 A. Once the preaudit examination -- preaudit
8 analysis is done, then the examination really starts.
9 Based upon the preaudit analysis, an appointment letter
10 is prepared. It's sort of an introductory letter,
11 similar to a 1040 examination letter if any of you have
12 ever received it that says the IRS would like to
13 schedule an examination of your books and records.
14 Usually it will have a specific list of books and
15 records attached to it. And it will tell the
16 organization to either contact us to schedule an
17 appointment, and -- either that or it will actually have
18 an appointment date already set on it and tell them that
19 we're planning on meeting with you on this given day.

20 Q. So let's say that there was some type of
21 specific information that came your way about
22 misrepresentation in the 990, would your request to the
23 exempt organization for information be tailored towards
24 that?

25 A. Yes, it would. If we received a referral that

1 had specific information, our letter would be tailored
2 to that specific information. So, for example, if it --
3 if the referral came in and said you spent \$100,000 as a
4 down payment on your own house, we would ask the
5 organization, please provide us records as to your
6 expenditures for this period. Did you expend any of
7 these funds on your own house?

8 THE COURT: Excuse me just a moment, please.
9 We had some communication issues, and we need to get
10 another reporter.

11 (Further proceedings were had by Reporter Jan
12 Duiven, and are bound under separate cover.)
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1 CERTIFICATE

2 I, Deborah Wilhelm, Certified Shorthand Reporter
3 for the State of Oregon, do hereby certify that I was
4 present at and reported in machine shorthand the oral
5 proceedings had in the above-entitled matter. I hereby
6 certify that the foregoing is a true and correct
7 transcript, to the best of my skill and ability, dated
8 this 2nd day of September, 2010.

9
10
11
12 /s/ Deborah Wilhelm

13 _____
14 Deborah Wilhelm, RPR
15 Certified Shorthand Reporter
16 Certificate No. 00-0363
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